DOCUMENT RESUME

ED 415 764 HE 030 910

AUTHOR	Riskin, Leonard L.
TITLE	Integrating Dispute Processing into First-Year Law School Courses: A Videotape Series and Evaluation. Final Report.
INSTITUTION	Missouri Univ., Columbia. School of Law.
SPONS AGENCY	Fund for the Improvement of Postsecondary Education (ED), Washington, DC.
PUB DATE	1993-01-00
NOTE	65p.
CONTRACT	P116B91446
PUB TYPE	Reports - Descriptive (141)
EDRS PRICE	MF01/PC03 Plus Postage.
DESCRIPTORS	*Arbitration; *Conflict Resolution; Course Content; *Curriculum Development; Higher Education; Instructional Materials; *Law Schools; *Legal Education (Professions); Material Development; *Negotiation Agreements; Videotape Recordings
IDENTIFIERS	*University of Missouri Columbia

ABSTRACT

This report describes a program to produce four videotapes to be used to enhance previously produced materials that integrated teaching about alternative dispute processes into standard first-year law school courses at the University of Missouri-Columbia (UM-C). Another objective of this project was a comparative evaluation of the previously produced materials. The videotape project involved four tapes, each with accompanying instructor's manual and simulation materials, which illustrate dispute resolution processes (interviewing, counseling, negotiation, mediation, arbitration, and mixed processes) using fact problems relevant to introductory courses on contracts, property, torts, criminal law, and civil procedure. About 400 tapes have been sold to more than 100 law schools. The comparative evaluation of the earlier curriculum project concluded that the project had met its goals, as measured by a series of survey responses from students at UM-C compared with those of law students at Indiana University (Bloomington), where no dispute resolution instruction is offered the first year, and with law students at Willamette University (Oregon), where a single course on dispute resolution is offered in the first year. Appended are the evaluation report by Ronald M. Pipkin entitled, "Project on Integrating Dispute Resolution into Standard First-Year Courses: An Evaluation, February 1993," and letters and reviews that evaluate the videotapes. (SW)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

ED 415 764

Integrating Dispute Processing into First-Year Law School Courses A Videotape Series and Evaluation

Grantee Organization:

Center for the Study of Dispute Resolution
School of Law
University of Missouri-Columbia
Hulston Hall
Columbia, MO 65211

Grant Number: P116B91446

Project Dates:

Starting Date: August 1, 1989
Ending Date: July 31, 1992
Number of Months: 36

Project Director:

Leonard L. Riskin
Center for the Study of Dispute Resolution
School of Law
University of Missouri-Columbia
Columbia, MO 65211
Telephone: (314) 882-8084

FIPSE Program Officer: Sandra Newkirk

Grant Award:	Year 1	$70,838
	Year 2	$69,072
	Year 3	$56,822
	Total	**$196,732**

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

✓ This document has been reproduced as received from the person or organization originating it.

☐ Minor changes have been made to improve reproduction quality.

• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

HE 030 910

BEST COPY AVAILABLE

SUMMARY OF

FINAL REPORT TO
FUND FOR THE IMPROVEMENT OF POST SECONDARY EDUCATION
ON
GRANT PR/AWARD # P116B91446
INTEGRATING DISPUTE PROCESSING INTO FIRST-YEAR LAW SCHOOL COURSES: A VIDEOTAPE SERIES AND EVALUATION

This project builds on work from a previous FIPSE grant that developed a program to integrate teaching about alternative dispute processing into standard first-year law school courses. The earlier project produced course books and an instructor's manual with simulations. The current project has two parts. One part produced four videotapes (and accompanying instructors' manuals) that will enhance the effectiveness of the previously-produced materials and generally help educate law students, lawyers and judges about dispute resolution alternatives. The other part produced a comparative evaluation of the previous project (as enhanced by the current project).

Project Director: Leonard L. Riskin, Center for the Study of Dispute Resolution University of Missouri-Columbia School of Law, Hulston Hall, Columbia, MO 65211. Tel: (314) 882-8084; FAX: [314] 882-4984.

Project Reports and Products

This Final Report to Fund for the Improvement of Post Secondary Education on Grant PR/Award # P116B91446 (January, 1993).

The Dispute Resolution and Lawyers Videotape Series (West Publishing Co., St. Paul, MN, 1992).

-Tape I: Dispute Negotiation: Thompson v. Decker, A Medical Malpractice Claim (47 Minutes). Instructor's Manual with Transcript and Simulation Materials. (78 pp.)

-Tape II: Transaction Negotiation: The Carton Contract (35 minutes). Instructor's Manual with Transcript and Simulation Materials. (47 pp.)

-Tape III: Mediation: The Red Devil Dog Lease (38 minutes). Instructor's Manual with Transcript and Simulation Materials. (68 pp.)

-Tape IV: Overview of ADR: The Roark v. Daily Bugle Libel Claim. (Instructor's Manual with Transcript and Simulation Materials. (74 pp.)

- Complimentary Promotional Tape on The Dispute Resolution and Lawyers Videotape Series. (15 minutes)

FINAL REPORT TO

FUND FOR THE IMPROVEMENT OF POST SECONDARY EDUCATION

ON

GRANT PR/AWARD # P116B91446

INTEGRATING DISPUTE PROCESSING INTO FIRST-YEAR LAW SCHOOL COURSES: A VIDEOTAPE SERIES AND EVALUATION

submitted by

Leonard L. Riskin

Center for the Study of Dispute Resolution

University of Missouri-Columbia
School of Law
January 20, 1993

This document consists of the Final Report, Appendix A (Ronald Pipkin's evaluation of the long-term FIPSE-funded project to integrate alternative dispute processing into standard first-year courses), and Appendices B-1 through B-10 (letters and reviews that evaluate the videotapes produced under this grant)

EXECUTIVE SUMMARY

INTEGRATING DISPUTE PROCESSING INTO FIRST-YEAR LAW SCHOOL COURSES: A VIDEOTAPE SERIES AND EVALUATION

Grantee Organization: Center for the Study of Dispute Resolution School of Law, University of Missouri-Columbia, 104 Hulston Hall, Columbia, MO 65211

Project Director: Leonard L. Riskin (314) 882-8084

A. Project Overview

This project builds on work under a previous FIPSE grant that developed a program to integrate teaching about alternative dispute processing into standard first-year law school courses. The current project has two parts. One part produced four videotapes (and accompanying instructors' manuals) that will enhance the effectiveness of the previously-produced materials and generally help educate law students, lawyers and judges about dispute resolution alternatives. About 400 of these tapes already have been sold to over 100 law schools. The other part of the current project produced a comparative evaluation of the previous project, as it has developed in the ensuing years, and as enhanced by the current project.

B. Purpose

In 1985, the Center for the Study of Dispute Resolution undertook a two-year project, funded by FIPSE and the National Institute for Dispute Resolution, to integrate teaching about alternative methods of dispute processing into first-year law school courses in an effort to train law students to view dispute resolution as central to the lawyer's role. That effort produced books and instructors' manuals (Riskin and Westbrook, Dispute Resolution and Lawyers (West, 1987)), an abridged edition, and an Instructor's Manual (with simulation materials) that have been used at about 55 law schools.

We wanted to produce the videotapes and conduct a comparative evaluation of our project in order to enhance the effectiveness of the educational program at the University of Missouri School of Law and at other law schools that had adopted our approach and to promote the adoption of our approach at other law schools.

C. Background and Origins

Our effort to teach dispute resolution pervasively in first-year law school courses was well received in the law school community but it had not spread as rapidly as we had hoped. Several law schools had adopted parts of our program. But it was still more common to teach dispute resolution in advanced courses that focussed on dispute resolution. We believed our

approach had special advantages because it could affect students' outlooks during the most formative period in their legal education and because it could educate many faculty members about dispute resolution. The tapes would encourage schools to adopt our approach by making it easier for professors to teach dispute resolution in first-year courses. The comparative evaluation, we hoped, would show the effectiveness of our approach.

D. Project Description

We produced the following four demonstration videotapes with accompanying instructors' manuals and a 15 minute promotional tape:

- Tape I: Dispute Negotiation: Thompson v. Decker, A Medical Malpractice Claim (47 Minutes).
- Tape II: Transaction Negotiation: The Carton Contract (35 minutes).
- Tape III: Mediation: The Red Devil Dog Lease (38 minutes).
- Tape IV: Overview of ADR: The Roark v. Daily Bugle Libel Claim. (48 min.).

West Publishing Company has sold about 430 of these tapes to over 100 law schools. It is now beginning to market them, along with the Dispute Resolution and Lawyers book (which was produced under the previous FIPSE grant) to lawyers and providers of continuing legal education.

E. Project Results

1. The Entire FIPSE-funded First-Year Curriculum Project

Professor Ronald Pipkin's comparative evaluation of the entire first-year curriculum project (which included work under the 1985-87 FIPSE grant as well as the current project) is APPENDIX A. The evaluation concludes that the program is meeting its primary goals.

In addition, at the University of Missouri-Columbia School of Law the dispute resolution teaching is beginning to spread. First, in first-year courses teachers and students increasingly raise dispute resolution issues at many points not just during the dispute resolution modules. Second, some professors have begun to build dispute resolution into advanced courses, and the faculty has voted to encourage this.

2. The Videotape Project

The videotapes are enhancing the effectiveness and appeal of our approach to teaching dispute resolution in first-year courses. Of course, the tapes are also being employed in advanced law school courses, such as Mediation, Negotiation, and Alternative Dispute

Resolution. We happily allowed the authors of a competing casebook[1] to reprint the general information for the simulations for three of the videotapes and to reprint the confidential roleplay instructions in their Teacher's Manual. Thus, all the professors and students who use their book will likely be exposed to the tapes.

It has not seemed feasible to evaluate the educational impact of the videotapes in isolation from the dispute resolution teaching in which they are imbedded. In lieu of a formal evaluation of the tapes themselves, a review of the tapes and a series of letters, mainly unsolicited, are attached to this report as Appendices B-1 through B-9. All are quite positive. Many of the writers used words such as "excellent", "great", or "invaluable" to describe the tapes.

F. Summary and Conclusions

This project produced a series of videotapes to enhance the teaching of dispute resolution in law school courses and in programs for lawyers and a comparative evaluation of a long-term effort to introduce dispute resolution into first-year law school courses. The videotapes are selling well, enhancing the teaching of dispute resolution at the University of Missouri School of Law and at over 100 other law schools.

The evaluation concluded that the project is meeting its primary objectives.

G. Appendices

APPENDIX A:	Ronald M. Pipkin, Project on Integrating Dispute Resolution into Standard First-Year Courses: An Evaluation (Feb. 1993).
APPENDIX B-1:	James Boskey, "Resources for ADR in other Media", The Alternatives Newsletter (Association of American Law Schools, Section on Alternative Dispute Resolution), Nov. 1991 at pp. 31-32.
APPENDICES B-2 through B-10:	letters from law professors and lawyers commenting on the tapes

[1] Stephen Goldberg, Frank Sander, and Nancy Roger, Dispute Resolution 2d ed. (Little, Brown & Co., 1992).

Body of Report

A. Project Overview

This project builds on work under a previous FIPSE grant that developed a program to integrate teaching about alternative dispute processing into standard first-year law school courses. The earlier project produced course books and an instructor's manual with simulations.[2] The current project has two parts. One part produced four videotapes (and accompanying instructors' manuals) that will enhance the effectiveness of the previously-produced materials and generally help educate law students, lawyers and judges about dispute resolution alternatives. The Center and West Publishing Company have actively promoted the tapes. As of January 20, 1993 West had sold or otherwise distributed 430 tapes, mainly to law schools. The other part of the current project produced a comparative evaluation of the previous project, as it has developed in the ensuing years, and as enhanced by the current project.

The body of this Report is devoted principally to the videotape portion of the project. The evaluation component is described in Professor Ronald M. Pipkin's report, which is Appendix A.

B. Purpose

Most of legal education is grounded on a narrow, adversarial view of the lawyer's role, despite the existence of alternatives to traditional litigation. Many law students do not perceive of lawyers as problems solvers.

In 1985, the Center for the Study of Dispute Resolution undertook a two-year project, funded by FIPSE and the National Institute for Dispute Resolution, to integrate teaching about alternative methods of dispute processing into first-year law school courses. This unique approach exposes students to information about such dispute resolution processes as arbitration, mediation, and negotiation and to skill building exercises in an effort to train them to view dispute resolution as central to the lawyer's role. The Center undertook this project knowing that it would pose challenges in developing appropriate curriculum, preparing teachers and evaluating the program's impact.

Many problems associated with providing appropriate curriculum and teacher preparation were solved by the three books generated by the project: Riskin and Westbrook, Dispute Resolution and Lawyers (West, 1987), an abridged edition, and an Instructor's Manual with simulation materials. Several law schools adopted portions of our program for first-year courses, but most dispute resolution teaching was confined to advanced courses that focused principally or exclusively on dispute resolution, taught by professors with expertise--or at least very strong interest--in dispute resolution.

---

[2] The work under the first FIPSE grant is described in Leonard L. Riskin and James E. Westbrook,, Integrating Dispute Processing Into Standard First-Year Law School Courses: the Missouri Plan, 39 J. Legal Ed. 509 (1989).

Numerous professors who teach first-year courses at other law schools told us that they did not feel sufficiently familiar with some alternative dispute resolution processes to demonstrate and analyze these processes in class and that they would be more likely to adopt our approach if demonstration videotapes were available. In addition, it was clear that the dispute resolution teaching at this law school would be enhanced by demonstration videotapes. At this law school and elsewhere, it is inefficient and often impossible to provide live demonstrations; in addition, live demonstrations do not always make the appropriate points.

Another problem in promoting the teaching of dispute resolution in first-year courses was that we lacked substantial data to demonstrate the effectiveness of our approach; the original project included limited evaluation from which few conclusions could be drawn. The comparative evaluation would help us refine our approach and promote it to other law schools.

C. Background and Origins

When we began this project, we were faced with the following situation. At the University of Missouri-Columbia School of Law we had institutionalized a program to teach dispute resolution in all first-year law school courses, using the regular faculty members to teach. We had produced books and an instructor's manual, which were in use at about 55 law schools. The project had received much national publicity and was widely considered very innovative as well as a wonder of law school faculty cooperation. (About 15 UMC law school faculty members participated in developing and conducting this project; in addition, the Instructor's Manual included some 34 exercises prepared by 24 law professors from 14 law schools).

A few law schools had adopted parts of the program in first-year courses, but it was not spreading as rapidly as we had hoped. (One law school adopted the entire program but suspended it after one year because it seemed to require too much management). Even for law faculties that want to teach dispute resolution, it is much simpler to do so in specialized courses, whether they be advanced or first-year. Several law schools had begun teaching dispute resolution as part of required first-year courses on "Lawyering Process" and at least two law schools had introduced a required first-year course on dispute resolution. But almost all the remaining dispute resolution teaching took place in advanced course specializing in one or several dispute resolution methods.

We wanted our approach to spread because we believed it potentially could be more effective than other approaches, for two reasons. Because we concentrated our training in first-year courses, it could affect students' attitudes and knowledge about lawyering at a time when they were just beginning to form their professional identities and thus were most impressionable. Because we taught dispute resolution in all first-year courses, the students would see its relevance to many areas of law and all of the professors would become familiar with dispute resolution. Thus, we hoped, the dispute resolution teaching would spread beyond the individual teaching modules in the first-year courses and also into advanced courses that deal with substantive law.

D. Project Description

We worked assiduously to produce the four videotapes over the first two and one half years of the project. For production, we used the staff and services of the University's Academic Support office. Each of the tapes involved numerous steps. First, we selected the role play exercise upon which to base the simulation. (We chose exercises that were in the Instructor's Manual that we had prepared under our previous FIPSE grant.) Next, we selected actors. We used law professors in the first two tapes and practicing lawyers in the second two. On each of the tapes, the assistant project director worked with me as a co-director.

When it came time to shoot each tape, we first talked through roughly what we wanted the actors to do and show and then we shot relatively long versions of the processes we intended to demonstrate. After we studied the rough versions of the tapes, we instructed the producer, a member of the university's academic support staff, about what to cut. Then we prepared and shot rough versions of the narratives and graphics, which the producer inserted. (In making the first two tapes, we used the expensive services of the Academic Support office in producing the narratives. When we got to the last two tapes, we were low on money. We realized that for our purposes, we could shoot these rough versions with a small VCR, and we did.)

Next, we sought comments and evaluations on the tapes. We hired two or three law professors to review each tape and send us detailed comments. Most of these consultants showed the tapes to their law school classes; some showed them to groups of lawyers. At this school, we showed the rough versions of the tapes to law students as part of first-year and advanced classes, and we solicited comments and suggestions. In addition, we showed the tapes to students at several other law schools, where someone from the Center was teaching temporarily, and to groups of lawyers, judges and business school students. During this period, the tapes were shown at the following law schools, and probably others: Boston College, Columbia University, University of California-Hastings College of Law, The Dickinson Law School, Harvard, University of Missouri-Kansas City, Ohio State University, Pepperdine University, University of San Diego, Vermont, and Williamette.

With the comments we received and our own experience, we directed the producers to re-edit the tapes. Then we revised the narrative and the graphics and produced the almost-final version, which we then proofed. Finally, we hired two local cellists to record a different chamber music piece for the opening and closing of each tape. And the producer put all of this together, with our close involvement.

When all the tapes were completed, we arranged for the producer to make a 15-minute promotional videotape, with excerpts from all four of the tapes, and we hired a local television news anchor person to narrate it. (I had narrated the tapes).

By December, 1991, West Publishing Company had produced numerous copies of the tapes, sent promotional literature to all U.S. law professors who teach first-year courses, legal process, clinical courses, legal ethics or dispute resolution, and sent a copy of the promotional tape with a letter to all U.S. law school deans.

Next, we began working on an instructor's manual for each of the videotapes. For each tape, I prepared a draft of the manual, and hired two or three consultants to review the tape and the draft and to give me their suggestions. We then prepared the manuals in camera-ready copy and sent them to West Publishing Company for duplication. By Fall, 1992 West had produced the manuals and distributed them to all persons who purchased the tapes.

Throughout the above period, I promoted the tapes at every opportunity, especially when I spoke to groups of law professors, lawyers or judges. In particular, I demonstrated and described the tapes to the law faculties at Washington University in St. Louis and the University of Colorado. Both schools have purchased and are using the tapes.

As of January 20, 1993, West had sold or otherwise distributed roughly 430 tapes. Most of these were sold to law schools and most buyers purchased the set of four. Sales totals for individual tapes were as follows: Tape I, 107 copies, tape II, 105 copies, tape III, 109 copies, and tape IV, 109 copies. West is currently preparing to market the tapes to lawyers and judges and to providers of continuing legal education services. I am hopeful about this effort. Both the Missouri Bar and the Jackson County (Kansas City, MO) Circuit Court seem likely to buy copies. One large law firm has expressed interest in purchasing a large quantity of one tape to distribute to clients.

In January 1993, West began to promote the tapes, along with the Dispute Resolution and Lawyers book to providers of continuing legal education and to law firms.

E. Project Results

1. The Entire FIPSE-funded First-Year Curriculum Project

Professor Ronald Pipkin's comparative evaluation of the entire first-year curriculum project (which included work under the 1985-87 FIPSE grant as well as the current project) is APPENDIX A. Professor Pipkin concluded that the project has met its primary goals.

I have recently come into possession of a series of comments on the tapes and the overall project. Because the letters containing these comments were solicited for another purpose, I have not attached them to this report but will provide a few quotations. Professor Nancy Rogers of Ohio State University wrote: "...his proposal [the FIPSE-funded first-year curriculum project], described in a Journal of Legal Education article and embodied in his co-authored book, Dispute Resolution and Lawyers and accompanying teacher's manual, has caught the imagination of law schools across the country. Our own faculty is watching it closely and the curriculum has been adopted in a number of other law schools. The book is respected not only as a curricular innovation but also as a major scholarly contribution creating a framework for viewing the field of dispute resolution." (Letter of Jan. 19, 1993). Harvard Law School Professor Frank Sander said that the first-year project has "received national recognition" and that the tapes are "a valuable and much needed contribution to the field." (Letter of Dec. 28, 1992) Professor Robert Mnookin of Stanford Law School wrote that our book, "Dispute Resolution and Lawyers has had considerable influence, and his idea of integrating across the curriculum in the first year a broad perspective of dispute resolution is widely admired." (Letter of Dec. 28, 1992). Professor Howard Lesnick of the University of

Pennsylvania Law School wrote, "His coursebook has been a major source of the recognition of dispute resolution . . . as a recognized field of law school study and legal practice. His work exemplifies what can be done to integrate law school and professional education. (Letter of Jan. 19, 1993). Dean Donald Gifford of the University of Maryland School of Law called the Dispute Resolution and Lawyers book "a classic in the field" and said the "program to integrate Alternative Dispute Resolution training into traditional first-year courses is one of the most substantial and exciting experiments in American legal education in recent years." (Letter of Dec. 23, 1992) Professor Edward Sherman of the University of Texas School of Law said that the book "has played a seminal role in the development of dispute resolution courses in law schools." (Letter of Jan. 19, 1993).

I would also like to report on some fortunate developments in the program at the University of Missouri-Columbia. When we designed the original project to integrate dispute resolution into first-year courses in a series of modules, I hoped that it would spread. Specifically, I hoped that professors and students would begin to raise questions and make comments about dispute resolution at many points in first-year classes and in advanced classes. Until recently, this has happened, but not often enough to be meaningful (except that dispute resolution has been thoroughly integrated into the first-year legal research and writing program, which was not contemplated in our original plan).

But in the last year or so, things have perked up considerably. Last year, one on our new colleagues, Professor Jerome Organ, developed a very sophisticated negotiation exercise for his advanced course in Environmental Law. Last month a senior colleague, Professor Richard Tyler, began to develop a plan to introduce dispute resolution simulations into his advanced course in Corporation Law. Colleagues who teach first-year courses plainly are taking the dispute resolution material seriously and report that both they and students are introducing dispute resolution issues into the classes.

Perhaps most significantly, the entire faculty recently voted to encourage the introduction of professional skills training (which includes dispute resolution as well as other skills) into advanced courses and to develop special advanced substantive courses that have major professional skills components.

A number of factors have contributed to the faculty's increased interest in skills training and dispute resolution. One is the addition of several new junior faculty members who are oriented in this direction. Another is the general increase in dispute resolution activity for lawyers. Still another is the great national recognition achieved by our first-year curriculum project. In addition the law school accrediting body, the American Bar Association, has been pushing skills training. Finally, a recent study of legal education, which is certain to be very influential, pushes skills training and dispute resolution quite hard. (American Bar Association Section on Legal Education and Admissions to the Bar, Legal Education and Professional Development--An Educational Continuum (Report of the Task Force on Law Schools and the Profession: Narrowing the Gap) (1992) (also known as the McCrate Report).

The McCrate report is likely to encourage many law schools to enhance their dispute resolution teaching. I think that the materials and approach developed under the two FIPSE grants are likely to be influential.

2. The Videotape Project

Although I cannot fully document it, it seems plain that the videotapes are enhancing the effectiveness and appeal of our approach to teaching dispute resolution in first-year courses. A substantial number of professors from other law schools have told me that they are using our tapes in first-year classes, and many of them have made it clear that without these tapes they would not have tried to teach dispute resolution in such courses, or, if they had tried, would not have been as successful. Of course, the tapes are also being employed in advanced law school courses, such as Mediation, Negotiation, and Alternative Dispute Resolution. They are being used by both by professors who teach from the Dispute Resolution and Lawyers book and those who do not.

We happily granted the authors of a competing casebook[3] permission to reprint the general information for the simulations for three of the videotapes and to reprint the confidential roleplay instructions in their Teacher's Manual. (One of the authors also prepared some of the confidential information to put into our teacher's manual.) Thus all the professors and students who use their book will likely be exposed to the tapes.

It has not seemed feasible to evaluate the educational impact of the tapes in isolation from the dispute resolution teaching in which they are imbedded. In lieu of a formal evaluation of the tapes themselves, I have attached in Appendix B a review of the tapes and a series of letters from professors and lawyers commenting on them. All are quite positive.

The authors of most of these comments were not aware that their words would be passed on to FIPSE. In that sense, I consider these comments "unsolicited": Professor James Boskey of Seton Hall University gave the tapes a fine review. (James Boskey, "Resources for ADR in other Media", The Alternatives Newsletter (Association of American Law Schools, Section on Alternative Dispute Resolution), Nov. 1991 at pp. 31-32) (Appendix B-1). He said that Tape I "gives an excellent feeling of authenticity while demonstrating clearly the ways in which competitive and problem solving approaches to negotiation can be mixed in a single negotiation." He called Tape II "one of the clearest demonstrations of the difference between competitive and cooperative tactics that I have seen." In sum, he said the tapes "provide a useful tool for a variety of ADR courses and are not only instructive, but enjoyable to watch." Harvard Law School Professor Frank Sander reviewed Tapes III and IV and called them "excellent." He said, "I'm particularly pleased with the Mediation tape because it fills such an important gap." (Appendix B-2.)

Betsy Ann Stewart, an attorney and mediator from Independence, Missouri called tapes I and III "excellent" (Appendix B-3), the same term Professor Peter Salsich of St. Louis University applied to tape III. (Appendix B-4) Richard Routman, Director of Midwest Mediation and Arbitration, Inc., in Kansas City, called the tapes "great" and "good training tools for lawyers and the community at large." (Appendix B-5) Dean Harry Haynsworth of Southern Illinois University School of Law said, "I think the tapes are very well done and that they can be used quite effectively in a classroom setting." (Appendix B-6)

---

[3] Stephen Goldberg, Frank Sander, and Nancy Roger, Dispute Resolution 2d ed. (Little, Brown & Co., 1992).

I solicited comments from three law professors especially for the evaluation section of this report: Professor Jacqueline Nolan-Haley of Fordham University School of Law called tape III "invaluable" and "about the best way to show the non-adversarial story of lawyering." (Appendix B-7) She was "also impressed with the professionalism and high quality" of tape I. Professor Douglas Haddock of St. Mary's University Law School used Tape III in his first-year Property course. He said it "was a big success". and "helped [him] put some humanity into a few of the abstractions we discussed in class." (Appendix B-8) Professor Robert Ackerman of the Dickinson School of Law calls the tapes "professional but not slick, useful but not overly facile." (Appendix B-9) Professor Bryn R. Vaaler of the University of Mississippi School of Law called tape II "a superb training tool." (Appendix B-10)

F. Summary and Conclusions

This project produced a series of videotapes to enhance the teaching of dispute resolution in law school courses and in programs for lawyers and a comparative evaluation of a long-term effort to introduce dispute resolution into first-year law school courses. The videotapes are selling well, enhancing the teaching of dispute resolution at the University of Missouri School of Law and at over 100 other law schools. The tapes turned out so well, I think, because we asked many wise people for their comments at various stages int he production of the tapes.

The evaluation concluded that the project is meeting its primary objectives.

APPENDICES

APPENDIX A:	Ronald M. Pipkin, Project on Integrating Dispute Resolution into Standard First-Year Courses: An Evaluation (Feb. 1993).
APPENDIX B-1:	James Boskey, "Resources for ADR in other Media", The Alternatives Newsletter (Association of American Law Schools, Section on Alternative Dispute Resolution), Nov. 1991 at pp. 31-32.
APPENDIX B-2	Letter from Professor Frank E.A. Sander, Harvard Law School
APPENDIX B-3	Letter from attorney Betsy Anne Stewart, Independence, Missouri
APPENDIX B-4	Letter from Professor Peter Salsich, St. Louis University Law School
APPENDIX B-5	Letter from Richard Routman, Midwest Mediation and Arbitration, Inc., Kansas City, Missouri
APPENDIX B-6	Letter from Dean Harry Haynsworth, Southern Illinois University School of Law
APPENDIX B-7	Letter from Professor Jacqueline Nolan-Haley, Fordham University School of Law
APPENDIX B-8	Letter from Professor Douglas Haddock, St. Mary's University School of Law
APPENDIX B-9	Letter from Professor Robert Ackerman, The Dickinson School of Law
APPENDIX B-10	Letter from Professor Byrn R. Vaaler, University of Mississippi School of Law
APPENDIX C	Comments for FIPSE

FINAL REPORT
TO THE
UNIVERSITY OF MISSOURI-COLUMBIA
SCHOOL OF LAW

Project on Integrating Dispute Resolution into Standard First-Year Courses

An Evaluation

Ronald M. Pipkin

Department of Legal Studies
University of Massachusetts
Amherst, MA 01003

February, 1993

APPENDIX A

INTRODUCTION

The Program to Integrate Dispute Resolution into the Standard First-Year Curriculum at the University of Missouri-Columbia (UM-C) School of Law began in 1985 supported by grants from the Fund for the Improvement of Post-Secondary Education (FIPSE) of the U.S. Department of Education and from the National Institute for Dispute Resolution (NIDR). The program is the only one of it kind in the country. Many law schools have developed upper-level courses in dispute resolution. A few have a first-year course on the subject or have incorporated a dispute resolution component into a standard first-year course. UM-C is the only law school to infuse dispute resolution comprehensively into the entire first-year curriculum.

Professors Leonard Riskin, Program Director, and James Westbrook, describe the background of the initiative as follows:

> First, because alternative dispute resolution activities are expanding rapidly, it seemed essential that new lawyers understand them and their development to meet clients' needs. Second, . . . that teaching dispute resolution carried with it the potential to remedy such weaknesses in traditional legal education as (1) its domination by the study of doctrine and rule-manipulation, which unduly elevates substance at the expense of process; (2) its predominant focus on a single process -- appellate adjudication; (3) its tendency to reinforce the image of the lawyer as hired gun through a narrow, adversarial vision of human relations and the lawyer's role; (4) its failure to instruct students sufficiently in fundamental skills such as interviewing, counseling, and negotiation (thus presenting students with a misleading picture of what lawyers do, allowing them to assume that most disputes are resolved through judicial proceedings or at least pursuant to the rule of law); and (5) its failure to suggest that the lawyer's overriding function is problem-solving and that advocacy -- inside or outside litigation -- is simply one approach to dealing with a problem.[1]

As part of the project, Riskin and Westbrook developed a textbook on dispute resolution.[2] With colleagues at UM-C and elsewhere, they created a series of role play exercises published in the instructor's manual.[3] Recently, the materials were further

---

[1]Leonard L. Riskin and James E. Westbrook, "Integrating Dispute Resolution Into Standard First-Year Courses: The Missouri Plan," *Journal of Legal Education*, 39:4, 1989, pages 509-510.

[2]Leonard L. Riskin and James E. Westbrook, *Dispute Resolution and Lawyers*. West Publishing Co. 1987.

[3]Leonard L. Riskin and James E. Westbrook, *Instructor's Manual with Simulation and Problem Materials to accompany Dispute Resolution and Lawyers*. West Publishing Co. 1987.

supplemented by a series of videotape demonstrations.[4] The exercises and videotapes illustrate dispute resolution processes -- interviewing, counseling, negotiation, mediation, arbitration, and mixed processes -- using fact problems relevant to introductory courses on contracts, property, torts, criminal law, and civil procedure.

The program is a bold attempt at innovation in legal education. The first-year curriculum has a sacred status in American law schools.[5] Its origins are traced to the father of modern legal education, Christopher Columbus Langdell, who established the case method and socratic pedagogy at Harvard Law School in the nineteenth century. The first-year curriculum performs a special reproductive function of the legal profession -- initiating the next generation of lawyers into that totemic cognitive realm called "thinking like a lawyer." It is essentially the same in all law schools; comprised of the foundation subjects in common law. It is the arena in which students at nearly every law school must compete to establish his or her class rank and consequence professional status. And, it is rare that a law school tries to innovate in it.

The UM-C program infuses dispute resolution instruction into each first course.[6] It requires the cooperation and coordination of all the first-year faculty -- a difficult accomplishment at any law school no matter collegial, especially over time. It teaches a new conception of legal practice, that of lawyer as problem-solver in which disputes are handled through processes that are collaborative, client-centered, and less conflictful than in the usual views of lawyering. And, it utilizes pedagogies of role play and simulations that engage students more completely in learning than possible through ordinary methods of class-room teaching.

The Evaluation

In Spring, 1986, at the conclusion of the program's first-year, I was asked by Professor Riskin to conduct an evaluation. Given limited time and resources, the evaluation

---

[4]*The Dispute Resolution and Lawyers Videotape Series* (West Publishing Co., St. Paul, MN, 1991). Tapes include: I. *Dispute Negotiation: Thompson v. Decker*; II. *Transaction Negotiation: The Carton Contract*; III. *Mediation: the Red Devil Dog Lease*; and IV. *Overview of ADR: The Roark v. Daily Bugle Libel Claim*..

[5] See Robert Stevens, *Law School: Legal Education in America from the 1850s to the 1980s* (Chapel Hill: University of North Carolina Press, 1983) pages 39-64 and E. Gordon Gee and Donald W. Jackson, *Following the Leader? The Unexamined Consensus in Law School Curricula* (New York: Counsel on Legal Education for Professional Responsibility, 1975).

[6]Some law schools have experimented with incorporating dispute resolution into a single first-year course. Early examples include law schools at St. Louis University, Washington and Lee, and William and Mary.

consisted of a two-day site visit, a series of interviews with faculty, students, and the Program Director, and a short questionnaire distributed to all first-year students. The evaluation necessarily focused on formative concerns -- dimensions of student acceptance and resistance to the instruction, the degree of coherence in faculty communications about program objectives, intended and unintended consequences of role-playing as a pedagogical device, and the interaction of student culture and the demands of the project.[7] As the evaluation utilized data solely from one-time observations within the experimental context, comparisons could only be cross-sectional -- i.e., contrasts among participating students. Therefore, I was unable to measure the impact of the project as an innovation in legal education.

In the preface to the report, I wrote:

> [UM-C] law school has taken a step that, at least so far, few other law schools have indicated a preparedness to take. Perhaps, what is most significant about the program . . . would be best revealed through comparisons to traditional programs in other law schools. A discussion of the program without such contrasts will miss its major strengths and, by this restricted focus, appear to dwell on its shortcomings. . . . For this reason, . . . I urge the consideration of a second outside review . . . that would encompass these areas.[8]

In 1989, the Center for Dispute Resolution at UM-C Law School received a three-year grant from FIPSE to conduct a more extensive evaluation.[9] For this study, I was able to implement the evaluative design permitting comparisons across time and groups in an attempt to measure more precisely the program's effects on individual participants and to assess the particular contribution of this curriculum to the students' legal education.

As described further below, data were collected in three surveys of same-subject, self-administered questionnaires distributed to students at three law schools. The surveys were conducted during first-year orientation for the entering class in 1990; again, in the last weeks of that same school year, after completion of the dispute resolution program at UM-C; and again, near the conclusion of the students' third semester, in second year. The study settings,

---

[7]Ronald M. Pipkin, *Report on the Program to Integrate Dispute Resolution into the Standard First-year Curriculum at the University of Missouri Law School* (1986). Some elements in that evaluation remain relevant and are restated in this report.

[8]Pipkin, *supra*, note 7 at page 2. A second evaluation was done at the conclusion of the program's second year. Not an impact study, that assessment appropriately dealt with the conceptualization of the project and its professional utility. See, Robert B. McKay and Jack P. Etheridge, *Report on the Program to Integrate Dispute Resolution into the Standard First-Year Curriculum at the University of Missouri-Columbia Law School* (1987).

[9]The grant also supported the production of a series of instructional videotapes (see *supra*. note 4.)

in addition to UM-C as the experimental school, were Indiana University-Bloomington Law School (IU-B), as a law school with a traditional curriculum,[10] and Willamette University Law School (WU), as a law school which offers a variation on the experimental condition -- a required course on dispute resolution in the first year.

IU-B was selected because of it's presumed similarities to UM-C. It too is a Mid-Western state funded law school located at its university's main campus away from the major urban areas of the state. Data from students at IU-B are to provide a base for comparison of the curricular effects of UM-C's program on its students. WU is a private law school located in Salem, Oregon. While geographically distant and, at least by funding sources, different from UM-C, WU's curricular effort in dispute resolution provides the possibility of isolating pedagogical effects in the UM-C program. Technically speaking, the study's research design is a combination of a longitudinal test-retest-retest with cross-group comparisons to a proxy control[11] and second experimental condition -- a nine cell fixed effects matrix for repeated measures.

Comparison Schools - Curricula

Except for the dispute resolution program, the first-year curriculum at UM-C is standard. It includes courses on Contracts, Property, Torts, Criminal Procedure and Criminal Law, Civil Procedure, and Legal Research and Writing. Each course is a year long in two semester parts. At IU-B, the first-year curriculum covers the same subjects except Property, Torts and Criminal Law are each taught as one semester courses and Constitutional Law (a second year course at UM-C) is required in the Spring. WU also teaches the standard first-year curriculum but includes the course "Dispute Resolution Processes" in Spring term.

The first year in legal education is the most intense of the three in terms of focusing the attention, energy, and time of students.[12] By teaching dispute resolution in this year, the UM-C and WU programs intend to have a much greater impact on students than if the

---

[10]That IU-B represented the traditional first-year law school curriculum was accepted upon the statement of it dean and some of its faculty. No additional effort was made to verify the fact nor to define what "traditional" might mean beyond the absence of dispute resolution instruction in the first-year.

[11]Obviously, a true control group is not possible. No two law schools provide experimentally identical conditions. Nor is possible to randomize assignment of participants to different schools. Therefore, the null-category school can only approximate an ideal control group in a laboratory experiment. Still the heuristic value of the comparison is expected to be of sufficient value to offset its limitations.

[12]See Report and Recommendations of the Special Committee for a Study of Legal Education of the American Bar Association, *Law Schools and Professional Education* (Chicago: American Bar Association, 1980) p 38-40.

instruction were consigned to the advanced curriculum, as is common elsewhere.[13] However, the intensity of the traditional curriculum also presents a problem. As an innovation in that curriculum, dispute resolution needs to be presented in such a way as to encourage students to take it seriously -- as a integral part of the curriculum and not as a detraction from primary educational tasks. UM-C and WU approach this problem differently.[14]

UM-C's program ties the subject of dispute resolution to substantive law problems in regular first-year courses,[15] and to images of legal practice. Thereby, it attempts to embed its knowledge and perspective into students' formative processes in law learning and developing professional self-images. The program has a theory of practice -- collaborative, client-centered, problem-solving lawyering. Its curriculum is to make room for this theory in legal education and students' professional socialization amid competing and conflicting perspectives. WU's program, by contrast, makes dispute resolution a discrete course, intentionally parallel in structure and pedagogy to other first-year courses. It invokes no theory of practice. Rather, its approach is to accommodate the contextual influences of law school culture. By assuming a parity in form with substantive law instruction and demanding equivalent student effort, it attempts to avoid curricular peripherialization. [16]

Comparison Schools - Student Composition

The objective in the evaluation is to determine whether there are meaningful school differences in the assessment measures, and, if present, whether they should be credited to effects of varying curricula at the three law schools. As a first step, then, it is necessary to determine whether the law schools are of similar or substantially different compositions. If different, it must to be determined whether the individual characteristics that make up those

---

[13]A national survey of law schools in 1989 indicated that 94% offered at least one course in dispute resolution. Nearly all of these courses were in the upper level curriculum. See, American Bar Association Standing Committee on Dispute Resolution, *Directory of Law School Alternative Dispute Resolution Courses and Programs* (Washington, DC: American Bar Association, 1990)

[14]The WU and UM-C programs came into existence at about the same time. Interestingly, Riskin and Westbrook (*supra*, note 1 at 510) explain their rejection of single course model as follows: "Although a separate course in the first year, taught by someone with a special interest, might encourage a reasonably high quality of instruction, it might also keep dispute resolution at the periphery of legal education."

[15]One participating faculty member said that he thought of his particular dispute resolution exercise as a very good way to teach a knotty substantive law problem.

[16]This explanation was provided by Associate Dean Bryan M. Johnston, originator of the Willamette course (note of interview, January 4, 1990).

compositional differences are related to the assessment variables. If not done, any school differences in assessment measures may lead to spurious conclusions about the effects of variance in instruction, rather than correctly to variance in student composition.[17]

Information on personal characteristics was solicited in the baseline survey.[18] Tables A-1 through A-4 (appendix) summarize the results. Table A-1 includes personal characteristics -- age, sex, marital status, and size of the city of origin. Table A-2 reports academic backgrounds -- type of undergraduate college attended, college GPA, and LSAT scores. Table A-3 includes background family status measures -- mother's and father's educations and occupations, and family income. And, table A-4 reports measures on family and personal political and religious beliefs. Statistical tests were conducted using analysis of variance (ANOVA) or cross-classification chi -square (χ^2), depending on variable type. Statistical significance is reported in the last column of each table. Groups Ns are listed in table A-1[19].

With few exceptions, students in the three law school populations were similar. Table A-1 shows that in each setting, the average age was 24-25; two of three students were male; and most were from small cities, towns, or suburbs. However, to a statistically significant degree, students at IU-B (84%) were less likely to be have been married (compared to 74% at UM-C and 68% at WU). And among students who have been married, at UM-C one in four was now divorced, as compared to one in seven at WU and one in ten at IU-B.

Data in table A-2, on academic backgrounds and law school qualifications, reflect certain small status differences between the schools. At each law school, about 3 of every 5 students had attended a public college or university as undergraduates, with UM-C having the largest percentage (69%) and the private law school WU smallest (61%). The law schools differed more significantly in the portion of students who had attended elite private colleges -- about one half of the students at IU-B who had attended a private college went to an elite college compared to about one quarter of private college alumni at UM-C and at WU.

As to self-reported undergraduate GPA and LSAT scores (48 point scale), the differences between the three schools were statistical significant but relatively minor with

---

[17]There are no pre-exiting hypotheses of relationships between individual attributes and assessment variables. Some literature has suggested that women may be more receptive to dispute resolution processes than men (see Carrie Menkel-Meadow "Portia in a Different Voice: Speculations on a Women's Lawyering Process," *Berkeley Women's Law Journal*, Volume 1, No. 1 [Fall, 1985], pages 39-63). However, the empirical support for that assertion has not been strong. Here, as reported below, gender was unrelated to all assessment variables.

[18]Survey response rates are reported *infra* page 13.

[19]A few respondents failed to answer a few questions, specifically those asking for academic scores and parental income. However, as missing responses did not exceed ten respondents for any one item, maximum Ns are reported in the table.

regard to means. Ranked by these measures, IU-B was higher than UM-C, which in turn was higher than WU.

Table A-3 shows that there were no statistically significant differences between students at the three schools with regard to parental occupations[20] or family income. About one half of the students at each school were from families with moderate or lower incomes (i.e., < $80, 000). About two thirds of students came from homes with working mothers, with 4 of 5 of those in non-professional occupations. Around one third of all students had fathers in the professions. Levels of parental education among students at the three schools did differ to a statistically significant degree. Parents of students at UM-C tended to be somewhat less educated than parents of students at WU and IU-B

Lastly, table A-4 reports the political orientations of parents and self. No statistically significant differences were found for student's mothers and self. Around one third of students at all schools professed political independence for themselves. Among the others, Republicans out numbered Democrats by a modest amount. Mothers were about equally classified as Republicans and Democrats, except at WU where somewhat more were counted as Republicans. Statistical significance was found for father's political affiliations. While Republicans out numbered Democrats in all three schools, the difference was greater at WU (36.8%) and least at IU-B (3.6%).

Religious background and importance of religion to self also differed to a statistically significant degree among the three student populations. Forty to fifty percent of students at the three schools were from Protestant backgrounds, 3 to 7% were Jewish, and 26 to 36% were from Catholic backgrounds. The primary source of statistical significance, however, came from the large portion of students at WU (30 %) who classified themselves as none or other.[21] Regarding importance of religion to self, about 1 out 5 students at each school reported that religion was very important. Statistical significance came from the somewhat lower level of religiosity at WU -- almost one half of all students there reported that religion was not very or not at all important to them, as compared to 36% at UM-C and 38% at IU-B.

To summarize, few significant differences exist in the distributions of student characteristics in these three study populations. Of those that do, most are probably the consequence of: a) small status distinctions between three schools; b) patterns of political and religious distributions related to geography; or c) slightly different ratios of primary to residual categories of the variables. There is no reason to believe that any of the variables found to differ to a statistically different degree by school are significant to the study objectives. However, to test this assumption, statistical tests (not shown) using marital status, college GPA, LSAT, parental education, and father's political affiliation with all assessment

---

[20]The questionnaire permitted nine categories of occupation. Statistical tests were run on the full array of responses. No statistically significant differences were found. The categories were collapsed in the table for parsimonious presentation.

[21]About half of this group were Mormon students.

measures were conducted. No statistically significant relationships were found. Consequently, any school differences in assessment measures can be confidently attributed to variance in curriculum and instruction, not to variance in group composition.

THE UM-C PROGRAM

In the UM-C program, each instructor of first-year courses (first-year courses run the full year and are divided into two sections) incorporates one or more discrete dispute resolution assignments into his/her syllabus. Assignments include readings in the Riskin and Westbrook textbook, participation in the relevant role-play exercise, and viewing video tape demonstrations of the processes. Sequencing and oversight of the complete dispute resolution curriculum are handled by Professor Riskin. However, instructors determine where the dispute resolution exercises best fit their syllabi and how results should be reported, discussed and evaluated. Role play and other student participation are not graded, Until recently,[22] few instructors included dispute resolution questions on course exams.

A summary of the curricula[23] follows:

Fall semester:

Legal Research and Writing: Overview of ADR and choosing an appropriate process (early September. 1 class period) -- readings, videotape demonstrations of mediation and client interviewing, and letter writing assignment;

Torts: Dispute Negotiation (early October, 1 ½ classes) -- readings, two negotiation exercises (one adversarial and one problem-solving on a trespass/mistake dispute);

Contracts: Transaction Negotiation (mid October, 1 class) -- videotape demonstration;

Civil Procedure: Comparisons of Adjudication and Mediation (early November, 2 classes) -- readings, role play exercises on neighbor dispute using adjudication and win-win mediation

[22]The lack of grading in the dispute resolution instruction was an early criticism of students (see Pipkin, *infra* note 7).

[23]Greater detail is provided in Leonard L.Riskin, *1993 Teacher's Memorandum to Accompany 1993 Supplements to Hardcover and Abridged Paperback editions of Riskin and Westbrook, Dispute Resolution and Lawyers* (Center for Dispute Resolution, University of Missouri) at 39-47. For an earlier version see, Riskin and Westbrook, *supra*, note 1, pages 512-514.

models;

Torts: Negotiation (early December, 1-2 classes) -- role play exercises involving negotiation of a medical malpractice claim, video tape demonstration of adversarial negotiation with problem-solving aspects, including participation of clients.

Spring semester:

Property: Negotiation and Mediation (mid-January, 1-2 classes) --reading, role play exercise involving a failed lease, and video tape demonstration with similar fact pattern;

Property: Interviewing and Counseling (late February, 1 class) -- reading, role play exercise involving client interviewing regarding a real estate development;

Contracts: Arbitration (early April, 1 class) -- reading and exercise involving comparisons of arbitration and litigation;

Criminal Law: Plea Negotiation (early-April, 1 class)-- role play exercise concerning a decision to charge in an indecent exposure case;

Civil Procedure (subject matter coordination with Torts): Client Counseling and Selection of a Dispute Resolution Process (late April, 2 classes) -- readings, video tape demonstrations, and limited student role play of a defamation/libel action dealing with ADR options.

In addition, an overview of the program is provided at first-year orientation and students are invited to a series of lectures by dispute resolution experts. Total class time 10 ½ to 12 ½ fifty minute class periods.

The WU Course on Dispute Resolution

For comparison, the WU dispute resolution course has as its primary text, Susan M. Leeson and Bryan M. Johnston, *Ending It: Dispute Resolution in America* (Cincinnati: Anderson Publishing, 1988). It is class room based, using the socratic method. It does not include role play exercises or video tape demonstrations. However, students are required to attend sessions of a one-day conference on dispute resolution for professionals held annually on the campus. While pedagogically distinct from UM-C's program, general subject matter coverage is similar -- litigation, negotiation, mediation, voluntary arbitration and court annexed arbitration. Instructional orientations, however, are quite different. UM-C's program emphasizes dispute resolution processes as lawyering skills. WU's course emphasizes dispute resolution processes as an area of emerging law. Total class time for the WU course is 26 fifty minute class periods. This is over twice the amount in-class coverage of UM-C's program. However, UM-C does requires a substantial commitment of students' time outside class for role plays.

Goals of the UM-C Program

An impact or effectiveness study attempts to determine by social scientific methods whether the objectives of the project are successfully implemented and, if successful, to estimate the likelihood of repetition in other environments.[24] Consequently, the first tasks in evaluation are to specify program objectives, determine how they can be assessed within the constraints of time and resources, and develop a set of operational indicators to measure success. On program goals, Professor Riskin provided the following:[25]

> Basic goal of the program -- to prepare students to serve clients and society better.
>
> I. Students, during law school:
>
> We hope to do the following:
>
> - to affect the way students conceptualize the role of lawyers and their own roles as lawyers and to assist them in understanding that the principal role of a lawyer is that of problem-solver, and that advocacy, in or outside litigation, is simply one of an arsenal of approaches a lawyer should possess;
>
> - to give students a basic familiarity with alternative dispute resolution processes, their advantages and disadvantages and when they may be appropriate; to give them a sense of how to interview and counsel clients in a client-centered, problem-solving fashion and a more realistic picture of what law practice is like;
>
> - to give students an inclination to look for alternative approaches to resolving the disputes described in the cases they read and to pursue more training in alternative dispute resolution in the advanced curriculum;
>
> - and to encourage students to feel more freedom to "be themselves," to search for meaning and self-expression in their lives as lawyers; and for those students of a collaborative nature, to should provide a means of understanding that there is a place for them in the legal profession.
>
> II. Students, after law school:
>
> We hope to affect the following:
>
> - students, as lawyers, will be more sensitive to their clients' needs and will help them toward the most appropriate method for resolving or preventing disputes, including

---

[24]See Peter H. Rossi and Howard E. Freeman, *Evaluation: A Systematic Approach* 4th ed. (Newbury Park, CA: Sage Publications, 1989).

[25]Memorandum, dated October 13, 1989. On file with Ronald Pipkin.

BEST COPY AVAILABLE

alternative dispute resolution methods;

- students, as lawyers and judges, will be more likely to promote alternative and appropriate dispute resolution methods through their work as members and leaders of bar associations and community and other public organizations;

- and through the above developments to improve for society the general quality of legal service provided to clients and the quality of the dispute resolution and prevention services; and it improve the public image of lawyers and the degree of client satisfaction with lawyers.

III. Law Faculty at UM-C:

We hope that all faculty here will become familiar with the basics of the major alternative methods of resolving disputes and will begin identifying dispute resolution issues for discussion in other parts of the standard first-year courses and in advanced courses. In other words, we want a dispute resolution perspective -- a focus on how to choose the most appropriate method for resolving or preventing a dispute --to be thoroughly integrated into the curriculum.

IV. Law Faculty Elsewhere:

We hoped law faculty elsewhere would be helped by our project to teach dispute resolution in first-year courses.

Goal Assessment

Within the time frame available for evaluation, I determined that the degree of success of the goals listed under I and III could be assessed. The longer term and broader goals (II and IV) may test the success of the program over time, but they cannot be assessed in the short term. The comparison schools were not asked for a statement of goals. The evaluation assumes that IU-B expresses none of these goals in its first-year curriculum. The objective of WU's course is understood to be transferring of knowledge and provoking analytical thinking about dispute resolution processes. It does not include altering conceptions of lawyering or enhancing practice skills.

The following were set as specific criteria of the program's success:

1) *students at UM-C, in comparison to students at IU-B, should develop and retain a better understanding of dispute resolution alternatives;*

2) *students at UM-C, in comparison to students at IU-B and WU, should: (a) develop and retain a better understanding of the concept of the lawyer as problem-solver; and (b) should develop their own dispute resolution skills.*

The following were set as secondary criteria of the program's success:

3) *students with a collaborative or non-adversarial nature at UM-C, in comparison to similar students at IU-B and WU, should have better morale in law school;*

4) *law faculty at UM-C should be familiar with dispute resolution alternatives and identify dispute resolution issues for discussion in other parts of the standard first-year courses and in advanced courses.*

METHODOLOGY

Three questionnaires were developed.[26] The first, distributed prior to the beginning of classes, provides baseline data. The second, distributed at the end of the first year after completion of the UM-C program and WU course, provides effect data. And the third distributed at the end of the respondent's third semester, provides retention data.

In Fall 1990, during the first-year orientation at each participating law school, all members of the entering class were asked to volunteer for the study.[27] As part of the presentation of the study, students were provided with an informed consent form[28] and the following statement:

A STUDY OF LEGAL EDUCATION

The first year of legal education is considered one of the most significant stages in the development of conceptions of lawyering for recruits to the profession. This study, sponsored by the Fund for the Improvement of Post-Secondary Education of the U.S. Department of Education, is intended to better understand this important educational process. The results will be provided to legal educators and others interested in legal education to assist them in evaluating the impact of law school curricula and some proposals for change. Your voluntary participation is very important for the success

[26]Each questionnaire was more elaborate than necessary for the evaluation, including a substantial number of items on student's educational experiences not related to the specific objectives of the study. The purpose for this was to keep up interest in participating at IU-B where many of the repetitive dispute resolution items were not relevant to students' experiences, and for the other two schools to provide some camouflage of assessment items in an effort to discourage respondents from trying to please the evaluator.

[27]Orientation sessions are scheduled on the day preceding the first day of classes. I introduced and distributed the survey at UM-C and IU-B. Because of overlapping dates, this had to be done by a staff member at WU.

[28]Approved by the Human Subjects Review Committee of the University of Missouri-Columbia.

BEST COPY AVAILABLE

of this study and the goals for which it is intended. The study will be conducted by Professor Ronald Pipkin of the University of Massachusetts, Amherst.

You are asked to complete the attached questionnaire and, later, two follow-up questionnaires -- one in the last few weeks of the second semester and one next Fall during your second year in law school. Each questionnaire should take only about 20 minutes of your time. The questionnaires are equally important to the study and therefore you are urged to complete each one when asked . . . .

The informed consent form accompanying this questionnaire explains the procedures of the study and your involvement in it. Your signature is required before participating in the study. Please note, your responses are strictly confidential. Nothing will be provided to the law school or any other agency, or be published that will identify your individual responses.

The first questionnaire, which follows, is divided into four sections: legal education; legal practice; legal careers; and background information. For nearly all of the questions, you are asked to check off or circle responses that best describe your views or information about you. No questionnaire can perfectly anticipate the answer you would give if asked in another format. Please answer each question using the categories presented. If you wish to explain your answers further, write in the margins or on the back of the questionnaire.

We hope that you find your involvement in this research project interesting and that it gives you an opportunity to think about your legal education and what it should be.

Thank You!

The second and third questionnaires were distributed as follows: each respondent's questionnaire was coded with a study i.d. number and enclosed in a large envelop with the individual's name on it; they were mailed in bulk to a designated member of the secretarial staff at each school who then distributed them to each respondent's school mailbox. After completing the questionnaire, respondents returned it without the envelope (so that no names appeared on the instrument) to the secretary, who checked off their i.d. number on a master log. On a specified date, the secretary matched i.d. numbers with a list of respondent's names and issued a follow-up letter to late responders urging continued participation in the study. After the close of the semester the questionnaires were returned in bulk to my office where they were coded and entered in the computer. Data were analyzed using SPSS-X. Response Ns and rates are provided in the following table.

Response Rates

	UM-C	WU	IU-B	Total
Fall Orientation (Base N)	(146)	(158)	(197)	(501)
Spring, First Year	60.3 (88)	72.2 (114)	66.0 (130)	66.3 (332)
Fall, Second Year	49.3 (72)	58.9 (93)	52.2 (103)	53.5 (268)

Full participation in the study involved completing three repetitive questionnaires without compensation or other specific incentive. Given that, the three-survey response rate of 53.5 percent is satisfactory and Ns are sufficiently large for reliable statistical analyses. To test whether the absence of non-responders in the second or third survey could lead to spurious longitudinal conclusions, all test items in the time 1 survey were subjected to an analysis of variance (ANOVA) by the grouping variables of school and completion of retest instruments. No statistically significant results were found. Consequently, it can be concluded that students most likely dropped out of the study for reasons not related to the evaluation and that interpretations of longitudinal findings are not affected by response rates.

In addition to the questionnaire, some participating and upper-curriculum faculty at UM-C were interviewed. The focus was on developing estimates of the contribution of the program to first-year courses and the law school curricula, generally.

RESULTS

Knowledge of Dispute Resolution Processes:

Objective 1: Students at UM-C, in comparison to students at IU-B, should develop and retain a better understanding of dispute resolution alternatives.

As stated in the evaluation objective, this assessment compares responses of students at UM-C to those from students at IU-B. Success is defined as a significant difference in the predicted direction -- i.e., greater knowledge about dispute resolution alternatives -- in the experimental condition (UM-C) than in the control condition (IU-B). Understanding dispute resolution alternatives was measured through two separate forms of assessment -- a report of learning and a test of learning.

There is no evaluation objective as to comparisons of results on these tests between UM-C and WU. Neither is claimed to be superior over the other in transfer of knowledge. However, the comparisons may be instructive. As noted earlier, the programs are very different in orientations to teaching dispute resolution -- lawyering skills vs. emerging area of law -- and in basic pedagogy -- role play and expert demonstrations vs. socratic classroom teaching. Therefore, data from WU's students are included in the presentation.

Self-Reported Learning

The report on learning was part of the second survey (at the conclusion of dispute resolution instruction at UM-C and WU). Dispute resolution subjects were included in an array of 24 areas of professional knowledge and skill (e.g., legal research, litigation strategies,

argumentation, empathy with clients, etc.). Respondents were asked "the degree to which law school has taught me: (1) a lot; (2) some; (3) a little; or (4) nothing about it."

Of those areas of professional knowledge and skills related to dispute resolution, all but one showed school effects to a statistically significant degree. The exemption was "problem-solving." Response categories 1 and 2 were combined as reports of meaningful levels of learning. Results by school are displayed in figure 1.

For those terms describing the major processes of dispute resolution practice -- negotiation, mediation, and arbitration -- students at IU-B reported almost no knowledge of these subjects. The contrast to UM-C, where most students reported learning about the subjects, is dramatic in the chart. Clearly, by these measures, the founding assumptions of the UM-C program are confirmed and its goal of educating students about dispute resolution alternatives is being achieved.

Interestingly, UM-C's students also report greater amounts of learning about these processes than students at WU. Interpretations of why that is so must be speculative. One hypothesis may be that students credit greater levels of learning when it involves seeing and doing rather than simply reading and talking. If that is the case here, it would support UM-C's pedagogical choice. A second possibility may be that perhaps WU's course has more parity with substantive law courses than intended. By emphasizing case law on dispute resolution processes, it encourages students to interpret their learning as being about law rather than about the subject of that law -- e.g., just as Contract Law does not teach contract writing, nor does Tort Law teach why people are negligent, etc.

For those areas where terms describe skills relevant to dispute resolution practice -- fact gathering, problem-solving, and interviewing -- somewhat fewer numbers of respondents report learning about them. UM-C's students were more likely than students at the other schools to report learning fact-gathering, even though this subject is not a primary emphasis in the program,[29] and about interviewing clients -- although for the latter subject the portion of respondents reporting learning about it is small in all three schools. As for problem-solving, there is no statistically significant difference between schools. The term resonated strongly with students at UM-C,[30] but also equally well with students at the other two schools where it is not a specific reference in the curriculum.

---

[29]Students at UM-C may have respond to the term as describing the part of role play exercises where significant facts must be ascertained from the other side for a successful outcome. However, the high levels also reported by WU and IU-B students suggest that many respondents may have keyed on the term as describing the central role given to facts in traditional case law teaching.

[30]This was also noted about students at UM-C during the first evaluation. See Pipkin, *supra.* note 7.

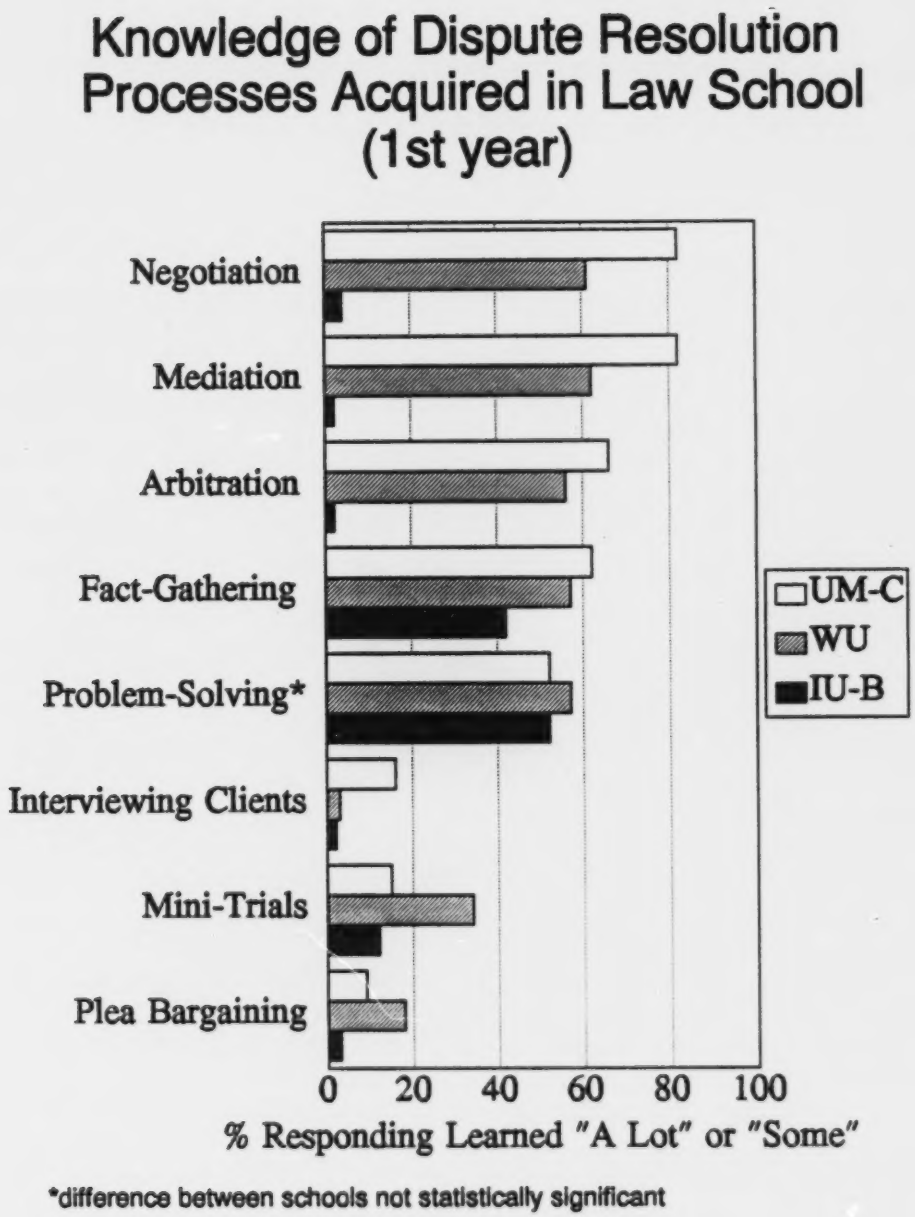

Knowledge of Dispute Resolution Processes Acquired in Law School (1st year)
Negotiation
Mediation
Arbitration
Fact-Gathering
Problem-Solving*
Interviewing Clients
Mini-Trials
Plea Bargaining
UM-C
WU
IU-B
0
20
40
60
80
100
% Responding Learned "A Lot" or "Some"
*difference between schools not statistically significant

Figure 1

As practice skills, these three areas are less exclusively associated with dispute resolution than with more general aspects of lawyering. However, the specific meaning students in the three environments may give to the categorical term of "problem-solver" is less clear. We know UM-C's program specifically uses the term to characterize an ideal type of legal practice. We do not know with certainly, but it is likely that elsewhere the term is used in its ordinary sense as a description of an effective actor. In both circumstances the term is positively connotated. Therefore, while IU-B and WU students may be equally likely to report learning problem-solving as UM-C students, they are unlikely to mean the same thing by it.

The last two areas of knowledge shown in the figure -- mini trials and plea bargaining -- are specialized subareas in dispute resolution. Although students in all three schools reported low levels of learning about these subjects, again, the differences between schools were statistically significant. The benefits of a technical orientation may show a pay-off in that students at WU report greater levels of learning in these subjects than students at the other schools..

To summarize, by comparisons of self-reported learning with the control school, IU-B, the UM-C program appears to be meeting its goal of increasing the understanding of first-year students about dispute resolution processes. While not a criterion in the evaluation, comparisons with WU are also favorable to UM-C. With regard to reported learning about problem-solving, a substantial portion of UM-C students indicated learning about it. But the term does not appear to distinguish UM-C's special emphasis on problem-solving from how it is understood by students in a standard first-year curriculum or where dispute resolution is taught solely out of a textbook.

Knowledge test:

A 10 item test was constructed to assess levels of knowledge about dispute resolution processes. The test is technical and requires rather a detailed understanding of dispute resolution alternatives to get all correct. It was part of the questionnaires in time 2 (effects survey) and time 3 (retention survey). Respondents were told not to guess but respond DK (don't know) if they were not sure of the answer.

The test was as follows: (correct answers noted by *)

1. When parties are in dispute because the law is unclear probably the best way to clarify their positions relative to the law is through:
   ____ 1) litigation*
   ____ 2) arbitration
2. An award in binding arbitration:
   _____ 1) is always judicially reviewed prior to enforcement
   _____ 2) is usually a final resolution for a particular dispute*
3. A element of voluntary arbitration which contrasts with litigation is:

BEST COPY AVAILABLE

_____ 1) the neutral third party is not bound by state law
_____ 2) rules of evidence are relaxed*

4. Decisions cannot be appealed through regular court processes from:
   _____ 1) mini-trials*
   _____ 2) "rent-a-judge" trials
5. If parties to a dispute want to work out their differences and get back to the status quo, probably the best process to use is:
   _____ 1) arbitration
   _____ 2) mediation*
6. Mediation differs from arbitration in that:
   _____ 1) it is a proceeding not open to the public
   _____ 2) resolution of disputes requires the agreement of the parties*
7. Arbitration differs from mediation in that the third party neutral:
   _____ 1) meets alone with each party
   _____ 2) is usually an expert in the area of the dispute*
8. Competitive strategies in negotiation are more likely than collaborative strategies to result in:
   _____ 1) a win-win outcome
   _____ 2) an impasse*
9. A summary jury trial is a process intended to:
   _____ 1) facilitate out-of-court settlement*
   _____ 2) focus and shorten time for pre-trial discovery
10. In mandatory mediation:
   _____ 1) the parties are ordered to resolve their dispute through mediation
   _____ 2) other settlement options remain open if mediation fails*

Results are displayed in figure 2. Again, although there is no evaluation objective in comparing UM-C with WU, data from WU are included in the chart for instructive purposes. The figure shows the average percent of correct responses from students at each school both at the conclusion of first-year instruction and later at time 3. Data are only from those who completed both tests. Repeated measures ANOVA, which controls for within subject variation, was used to test for independent effects of school and time and of the interaction term for school and time. School and time effects are each statistically significant at the level of $p.<.001$. The interaction term is not significant.[31] As the chart clearly shows, average level of performance on the knowledge test was different depending on the school attended. However, regardless of school attended scores improved in the retest.

---

[31] Results of Repeated Measure ANOVA:

Tests of Between-Subjects Effects.
Tests of Significance for T1 using UNIQUE sums of squares

Source of Variation	SS	DF	MS	F	Sig of F
WITHIN CELLS	1218.29	225	5.41		
SCHOOL	1151.52	2	575.76	106.33	.000

Tests involving 'TIME' Within-Subject Effect.
Tests of Significance for T2 using UNIQUE sums of squares

Source of Variation	SS	DF	MS	F	Sig of F
WITHIN CELLS	367.52	225	1.63		
TIME	38.69	1	38.69	23.69	.000
SCHOOL BY TIME	.61	2	.30	.19	.830

BEST COPY AVAILABLE

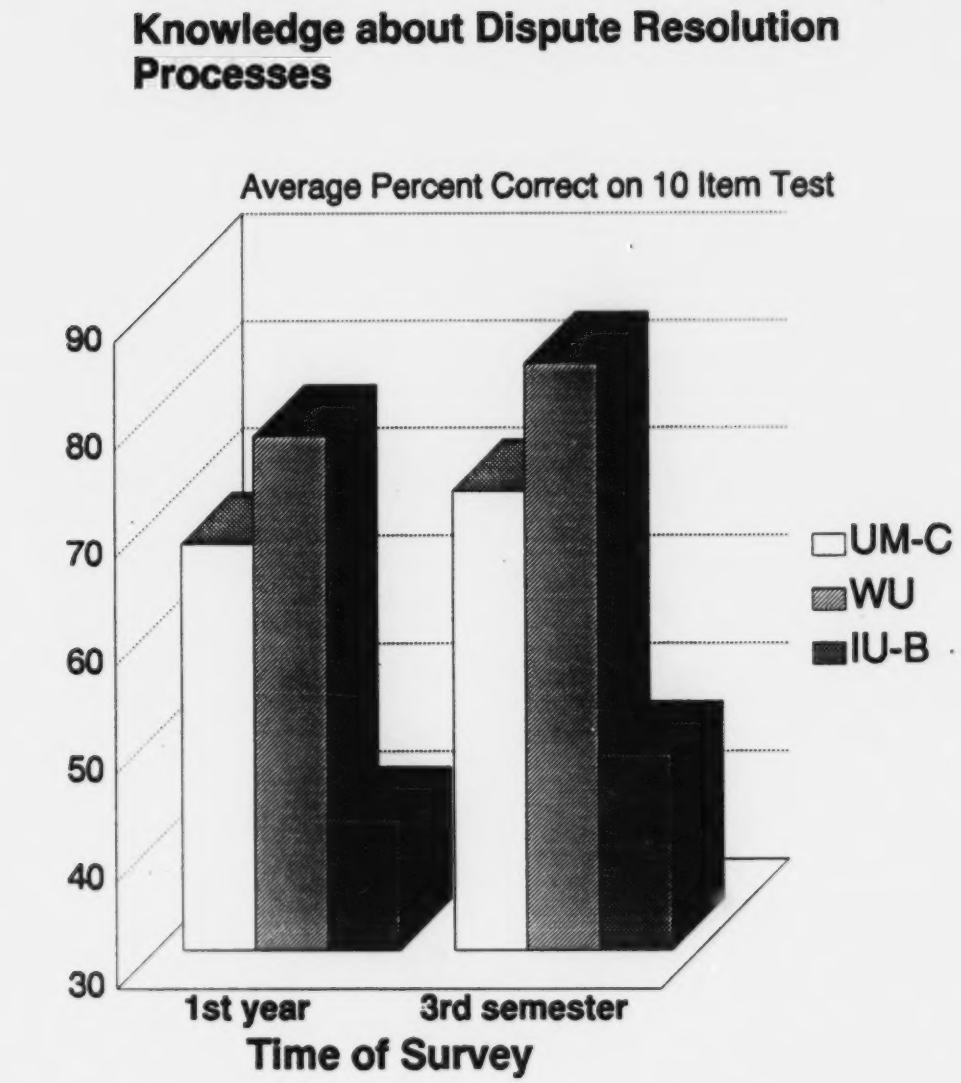

Knowledge about Dispute Resolution Processes
Average Percent Correct on 10 Item Test
90
80
70
60
50
40
30
UM-C
WU
IU-B
1st year
3rd semester
Time of Survey

Figure 2

At the conclusion of the first year, students at WU got the highest scores with an average 75 % correct. This is not surprising as at the time of this survey they were within days of an examination in their dispute resolution course. Also, in the UM-C program, technical information about dispute resolution processes is secondary to instruction about its practices and such questions as used in this test were unlikely to appear in the substantive law examinations. Still, students at UM-C scored an average 67 % correct. At IU-B, the average for correct responses was 42%. Consequently, this test too confirms that the UM-C program was meeting its instructional goal.

Results from the time 3 retest show improvement at all three schools. For UM-C and WU dispute resolution knowledge appears to be retained and even enhanced months after conclusion of the programs. Interestingly, the rank order remains the same -- WU an average of 84% correct; at UM-C 73% correct; and at IU-B, 48% correct -- suggesting additional learning is built on the original bases. The rate of improvement, although not sufficient to make the school-time interaction statistically significant, was greater for students at WU. There students improved their scores an average of 9% compared to 6% percent each at UM-C and IU-B. A speculative interpretation of this finding might be that the course at WU, by its emphasis on technical and legal aspects of dispute resolution processes, imputes greater value to knowledge in this form. Therefore, over time students may be more inclined to correct mistakes in their previous knowledge. Still, the improvement in scores at all three schools speaks well for retention, even at IU-B where students have not been given specific instruction.

To summarize, by the test of technical knowledge about dispute resolution processes, the UM-C program appears to be meeting its goal of increasing the understanding of first-year students about dispute resolution. Further, UM-C does only slightly less well in imparting this information than at WU where such information is more central in dispute resolution instruction. Also, the tests reveal that with some time passing after participating in the program this knowledge is retained.

Objective 2a: students at UM-C, in comparison to students at IU-B and WU, should develop and retain a better understanding of the concept of the lawyer as problem-solver.

The concept as used in the UM-C program is described as follows:

> The lawyer's principal job is to help the client solve the client's problems. The idea of the lawyer as a problem-solver means that advocacy, inside or outside of litigation, is merely one of the lawyer's tools. The lawyer's mission should be to help the client select the best method for dealing with a problem. Sometimes that is litigation, but a lawyer should not assume off-handedly that

litigation is invariably the most appropriate approach.[32]

The image of lawyer as problem-solver appears to counter two prevailing messages in the standard first-year curriculum: 1) that the primary task of a lawyer is adversarial advocacy -- being a hired gun; and 2) that a lawyer's first loyalty is to legal rules. It also opens up the conceptual space to develop images of lawyers working outside of court, negotiating or mediating disputes to satisfactory resolution.

Measurement difficulties are raised by the fact that the concept as defined above counters adversarialness by incorporating it into an array of problem-solving options and, thus, makes it situationally dependent. However, permitting respondents an answer-option of "it depends" is unsatisfactory, even though it may be the most appropriate answer in many circumstances. Therefore, the concept of problem-solver had to be harden into exclude adversarial choices. A set of nine items were developed to operationalize the image of lawyer as problem-solver. Students were asked to force a choice between a problem-solving or adversarial response.

The test of problem-solving vs. adversarial images of legal practice was included in all three surveys. An additive scale was constructed with problem-solving responses coded 1 and adversarial responses coded 0. Therefore, scores range from 0 to 9.

The test introduction and items follow (problem-solving options are marked with *):

Below are pairs of statements dealing with some aspects of the practice of law. You are to pick only the one statement in each pair that best represents your view. You may agree, or disagree, with both statements, but in each case mark one that comes closest to your view. There are no right or wrong answers!

1. A lawyer's obligation to society is best met by providing:
   1) services that satisfy their clients.*
   2) zealous advocacy for their clients' legal rights.
2. In advising a client, a lawyer should be primarily concerned with making sure:
   1) that the client understands the law.
   2) he/she understands what the client needs.*
3. In negotiations, a better agreement for the client will more likely be reached, if his/her lawyer:
   1) discloses relevant aspects of the client's situation and needs.*
   2) emphasizes the client's strengths and keeps secret the weaknesses.
4. A lawyer's primary obligation to clients is to:
   1) help improve their relationships with others.*
   2) assist in gaining what they are entitled to under law.

---

[32]Leonard L. Riskin, *1993 Teacher's Memorandum to Accompany 1993 Supplements to Hardcover and Abridged Paperback editions of Riskin and Westbrook, Dispute Resolution and Lawyers* (Center for Dispute Resolution, University of Missouri-Columbia, 1993) p. 38.

5. In negotiating, a lawyer should work to get:
   1) the best possible terms for his/her client.
   2) an agreement where both sides feel they have won something.*
6. To assist a client in a dispute, a lawyer should first seek to determine what issues divide the parties then:
   1) find the law that strengthens the client's position.
   2) look for the needs and interests the disputing parties have in common.*
7. A client in a legal dispute will more likely come out better if his/her lawyer:
   1) encourages the client to be involved in resolution decision-making each step of the way.*
   2) makes the important decisions concerning appropriate resolution strategies.
8. In lawyer-client relations, it is far better for both parties if the lawyer is:
   1) emotionally detached from the client and objective about the client's legal interests.
   2) concerned about the client and caring about what is best for him/her.*
9. A case is best resolved, if the lawyer:
   1) wins a significant amount of money for the client in court.
   2) reaches an out-of-court settlement satisfying the needs of both parties.*

Figure 3 displays the average scores on the problem-solving vs. adversarial scale from each survey. Only data from respondents completing all three surveys are included. A repeated measures ANOVA revealed the school-time interaction term to be significant.[33] This means that school and time effects are interdependent and neither can be discussed separately from the other. The figure makes the interaction clear.

Students at UM-C enter law school more inclined toward an adversarial view of lawyering than students at WU or IU-B (why this is the case is not clear). But at the end of the first year, after completing the dispute resolution program, their scores move dramatically toward the problem-solving end of the scale. Perhaps equally dramatic, and supportive of the view that the standard first-year curriculum presses students toward adversarialism, scores of students at WU and IU-B move in the opposite direction. The decline, though, is slightly less at WU than at IU-B. While its dispute solution course did not develop problem-solving images of lawyers, it may still have offered some insulation from the adversarial effects in the remainder of the curriculum.

---

[33] Results of Repeated Measure ANOVA:

Tests of Between-Subjects Effects.
Tests of Significance for T1 using UNIQUE sums of squares

Source of Variation	SS	DF	MS	F	Sig of F
WITHIN CELLS	1033.14	221	4.67		
CONSTANT	20983.92	1	20983.92	4488.67	.000
SCHOOL	15.47	2	7.73	1.65	.194

Tests involving 'TIME' Within-Subject Effect.
Tests of Significance for T2 using UNIQUE sums of squares

Source of Variation	SS	DF	MS	F	Sig of F
WITHIN CELLS	1152.81	442	2.61		
TIME	25.21	1	12.61	4.83	.008
SCHOOL BY TIME	20.50	2	7.62	2.92	.021

BEST COPY AVAILABLE

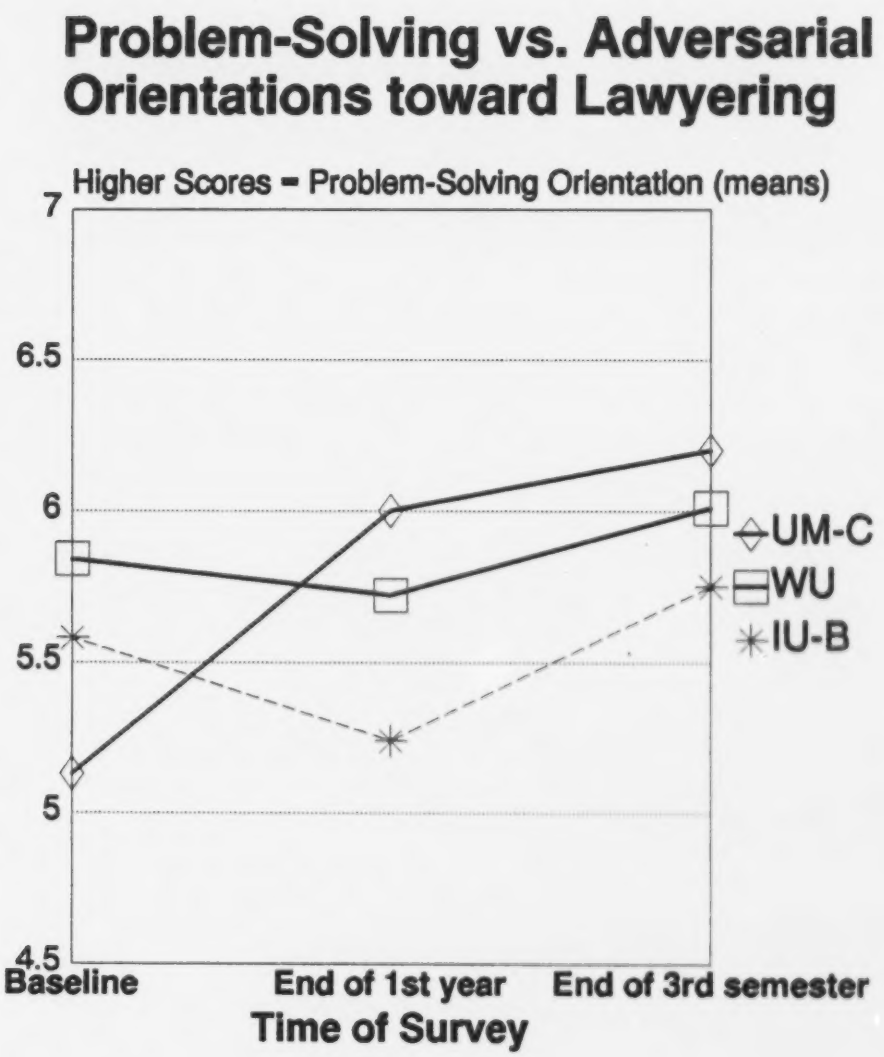

Problem-Solving vs. Adversarial Orientations toward Lawyering
Higher Scores = Problem-Solving Orientation (means)
7
6.5
6
5.5
5
4.5
UM-C
WU
IU-B
Baseline
End of 1st year
End of 3rd semester
Time of Survey

Figure 3

At time 3, students at UM-C embraced the problem-solving orientation to an even greater degree than immediately after the instruction. Again, this suggests retention of learning and the presence of other influences for further enhancement in that environment. At WU and IU-B, at time 3, remarkably, students turn back toward their incoming views and were slightly more inclined toward problem-solving than at entry. Apparently, having some distance from the first-year curriculum released them from the pull of adversarial images of lawyering.[34]

To summarize, using the scale of problem-solving vs. adversarial images of lawyering constructed for this study, students at UM-C were more likely than students at IU-B and WU to accept an orientation of lawyers as problem-solvers at the end of the first-year and to continue to develop that view into the third semester. Students at IU-B and WU were whip-sawed -- coming in somewhat inclined toward problem-solving, then pressed by the first-year curriculum moving toward more adversarial views of lawyers, then moving back toward problem-solving again in the third semester. Thus, UM-C appears to be satisfying its goal of instilling conceptions of the lawyer as a problem-solver in first-year students. Data at time 3 suggests that the problem-solving orientation continues to be reinforced for the students after the program is concluded. Students at the other two schools appear to be somewhat confused in orientations toward legal practice by their instruction.

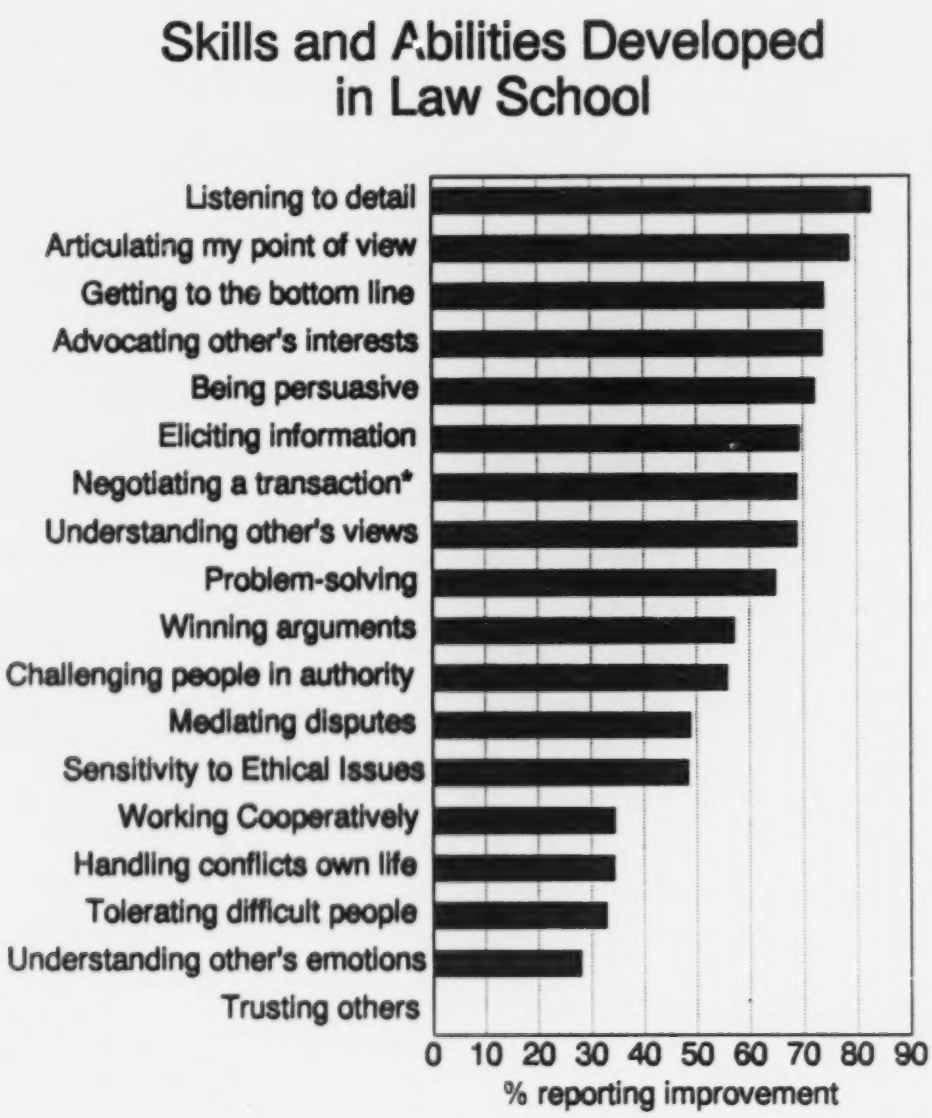
Objective 2b: students at UM-C, in comparison to students at IU-B and WU, should better develop their own dispute resolution skills.

What is intended here is to determine whether the experiential aspects of the UM-C program may have particular benefits for participants' dispute resolution skills. The program at UM-C is distinguished from that at WU not only by its methodology of pervasive teaching, but also by its emphasis on role play as a medium of learning. Role play (other than participation as simulated counsel in socratic interrogation) is unusual as a pedagogical device in standard first-year courses. It is assumed in the program that through these experiences students will not only learn how dispute resolution processes work but they will also be given a better sense of their own skills at negotiation, mediation, and interviewing, and how to improve them.

In the time 3 survey, respondents were provided with a list of 30 personal and professional skills and abilities and asked how has law school affected their own levels of these items. Some areas of improved skills and abilities are displayed in figure 4. With one important exception, no statistically significant school effects were found on

---

[34]There could be a number of explanations for this change. The second year law school curriculum may expand students' images of lawyers. It is largely elective and contains many courses in which lawyers are imagined as policy makers or legal advisors outside of court. Some students could be taking dispute resolution courses as second-year electives. Perhaps it results from the influence of work experience in law settings during the summer months or from increased association with other upper class students who have had these experiences.



*<.01 school effect: UM-C = 77.5; WU = 78.5; IU-B avg=53.9

Figure 4

any item related to dispute resolution. The exception was the skill or ability to "negotiate a transaction." Students at UM-C were about 1½ times more likely than students at IU-B (78% vs 54%) to respond that they were "much better" or "some better" at negotiation. However, blunting the conclusion that this was a result of the program's experiential exercises, students at WU reported an almost identical level (79%) of improvement as students at UM-C. By this comparison, reports of improvement in negotiating skill appear to be more a general consequence of dispute resolution instruction than role playing negotiation.[35]

With the exception of negotiation, the lack of statistically significant differences between schools suggests that UM-C's program did not over-ride the well established influences in legal education. Abilities believed by respondents to be most enhanced by law school (top of the chart) generally relate to argumentation and advocacy. Whereas, terms relating to empathy and cooperation, show small degrees of improvement.[36] Problem-solving, understanding other points of view, and mediating disputes are in the middle at all schools.

Perhaps most striking is that "trusting others" is actually negative. Reporting that law school has made them "somewhat worse" or "much worse" at trusting others, were 46% of students at UM-C, 42% at WU, and 34% at IU-B. While the differences do not quite reach the level of statistical significance, the larger group at UM-C may result from experiential learning. The greater degree of mistrust of others at UM-C recalls a comment from the first evaluation of the program. In considering an unintended consequence of role play exercises, I wrote:

> Simulations . . . often have a way of teaching the opposite of what is intended. For example, when students were asked directly, "in what way has the material and exercises on dispute resolution affected your understanding of lawyering?" first answers were generally of the sort . . . indicating some new recognition of the need for non-litigation settlement as a regular part of law practice. However, responses to follow-through questions made it clear that the experience had not promoted openness and cooperative problem-solving (qualities many students bring with them to law school anyway) but rather the exercises gave them new understanding (and for some a respect) for adversarial orientations.
>
> The mechanism for this effect was the inclusion of secret knowledge in

---

[35]This of course contradicts the speculation on page 15 that doing affects self-assessments of learning more than does reading about doing.

[36]Of course, as the question is worded students are not asked how highly developed were their incoming skills and abilities. Consequently, it is possible that items near the bottom of the chart were considered already to be possessed at so high a degree as to not be improved. However, the pattern of responses is consistent with what is known about the focus of legal education and therefore it is unlikely that this alternate interpretation is plausible.

> the ADR [alternative dispute resolution] exercises. It is typical in simulations of this type to include elements of secret knowledge as part of the role play; that is, to give parties certain significant information asymmetrically. Presumably this is intended to reflect reality and perhaps add some zest and intrigue to the play. [footnote: Secret knowledge also expands the variables in play and can provide the basis for a pedagogical test. For example, in a negotiation simulation, such hidden facts are likely to be programmed to provide the opportunity for leverage at particular points in the process and appropriate use of these facts may indicate the level of skill at which participants were playing. . . .] However, the consequences of providing players with asymmetrical information is also to provide participants with the opportunity for engaging in bluffing or lying. Many students apparently accept that option. Later, when those choices were revealed in class debriefings, guileless students (those who had adopted a truthful, cooperative approach) felt abused. Many students apparently took this to be just part of the fun. After these revelations, which presumably the instructor had anticipated, he/she took the debriefing to a general discussion of professional ethics regarding lawyers lying. Most likely he/she then felt the lesson had been well taken and students were now more sensitive to such issues. However, the learning cited by students from these occasions was different and deeply embedded: it was to become distrusting and cynical about fellow students (learning on the interpersonal level that even friends, when impersonating lawyers could be captured by the adversary ethic) and suspicious of the lawyer's role itself which appeared to make such demands on them. Their impulse was to become more competitive and not to be made a fool again.[37]

To summarize: Teaching about negotiation, whether through readings-exercises-video demonstrations or through reading and class discussion alone, appears to provide students with an increased sense of personal competence in negotiation. But participating in experiential instruction did not otherwise appear to substantially differentiate students at UM-C from students at the other schools in terms of self-assessment of skills improvement. Therefore, the goal that students at UM-C should develop better dispute resolution skills than students elsewhere, may be satisfied to only a limited degree.

Objective 3: students with a collaborative or non-adversarial nature at UM-C, in comparison to similar students at IU-B and WU, should have better morale in law school.

It is a common belief that in most law schools adversarialism is the prevailing culture. Therefore, by self-selection or socialization, there are few students who have a cooperative

---

[37]See Pipkin, note 7, pages 17-20.

disposition or do not generally embrace adversarialism[38] and, it is presumed, that these students will find law school to be a difficult environment. However, these are the very individuals who should be attracted to the values and processes in dispute resolution. Their morale is important. By reinforcing less adversarial models of lawyering, UM-C's program may, as a secondary goal, comfort and shelter those more cooperatively inclined students.[39] Presumably IU-B and WU, by the absence of such a program, offer their cooperatively inclined students fewer attractive lawyering images.

The study did not include personality measures. So, to test this objective, an item was used from the time 2 survey where respondents were asked to characterize themselves by a number of terms, one being cooperative. Those responding "very cooperative" were coded as a group.[40] As expected, the group was a minority at each school -- 18% at UM-C, 22% at IU-B, and 32% at WU. This group was then compared with the rest of their classmates within each school on enjoyment of law school, liking classmates, and degree of anxiety experienced in law school -- all measures from the time 2 (end of first-year) survey.

The three charts in figure 5 display the results. Each set of variables was tested by ANOVA. In no case was the school-disposition interaction term significant. School effects were statistically significant for all three dependent variables, but disposition (very cooperative vs. less than very cooperative) effects were only present for "liking classmates." As school was included only as a control and not an explanatory variable, there is no hypothesis for interpreting the school effects.

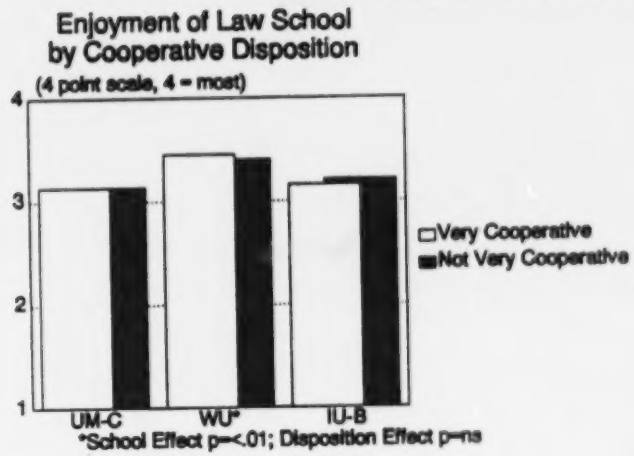
On each of the three measures IU-B students on average scored slightly lower than at the other two schools -- enjoyment of law school, liking classmates, and experiencing anxiety. As for liking classmates, the dispositional measure was independent of school. Cooperative students in all three settings were more likely than others in their class to report liking their classmates. Without a significant interaction between school and cooperative disposition, there

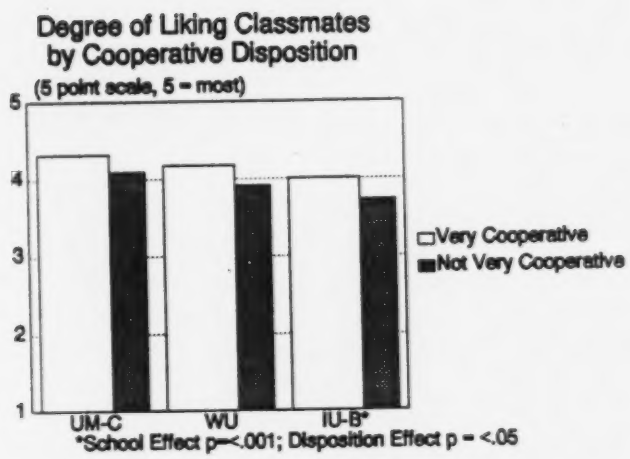
---

[38]Actually, not very much is known about law student personalities. For a review of literature see, James M. Hedegard, "The Impact of Legal Education: An In-Depth Examination of Career-relevant Interests, Attitudes, and Personality Traits Among First-Year Law Students," *American Bar Foundation Research Journal* 1979 (Fall) No. 4. pages 793-868.

[39]It should be noted that the term "collaborative," as used by Riskin in the statement of goals, is meant to be different than the term "cooperative." By collaborative, Riskin means problem-solving through working together. Thus, even adversarial collaboration is possible. However, I interpret the word "collaborative" to be a better descriptive of a process than a person. Therefore, the term "cooperative" may not be exactly what is intended by Riskin, but I believed it was easier for respondents to apply to themselves than "collaborative."

[40]The extreme response category was used because the best test of the hypothesis is the marginal group.





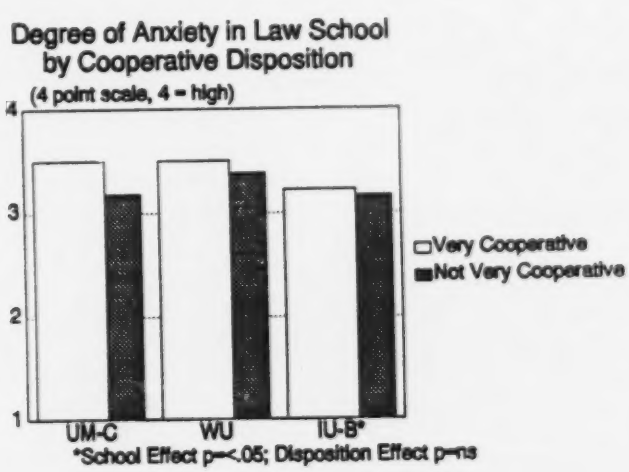


Figure 5

BEST COPY AVAILABLE

is no reason to credit that to effects of UM-C's program.[41] Rather, students who saw themselves as very cooperative, regardless of setting, were just more kindly disposed to their classmates than were their classmates.

The third chart in figure 5 showing degree of anxiety is interesting. Considering especially students at UM-C, it appears that part of the initial presumption may be correct. Cooperative students do experience more anxiety than others (although not to a statistically significant degree). Most likely the sources of that anxiety are too immediate in the environment to be salved by distance images of collaborative legal practices offer by the dispute resolution curriculum.

To summarize: Success in the secondary goal of UM-C's program of encouraging the morale of more collaborative students could not be substantiated. In fact, students who identified themselves as very cooperative did not appear by the measures considered here to be in any special need of morale building.

Objective 4: law faculty at UM-C should be familiar with dispute resolution alternatives and identify dispute resolution issues for discussion in other parts of the standard first-year courses and in advanced courses.

Evidence for the test of objective was collected much less systematically. During the course of the first evaluation I interviewed several first-year faculty and wrote the following:

> My general impression . . . was that faculty were participating in the program more from an allegiance to the law school (and perhaps certain individuals) than from a personal commitment to the value of ADR. They saw dispute resolution as a distinct and discrete subject matter which, while relevant to the substantive matters they taught, was in fact rather marginal to the primary tasks of their courses.

During the current evaluation I again interviewed first-year faculty and some advanced curriculum instructors as well. My sense is that much as changed since the first evaluation. The dispute resolution curriculum is well accepted by first-year teachers. Most of them appear to be strongly committed to the program and speak of it with enthusiasm. Importantly, new faculty also appear to embrace the program. Also noteworthy is the expansion of the program from its original five course substantive law curriculum to also include the first year Legal Research and Writing course. This was done at the initiative of the course's instructor. My

---

[41]Also, no statistically significant relationships were found between cooperativeness and problem-solving vs. adversarial images of practice at any of the three measurement intervals. Therefore, there appears to be nothing here to support the belief that the dispute resolution program at UM-C is more congenial for cooperative students than for others.

impression is that the program is now stable and well integrated into the first-year curriculum.

As to the more ambiguous goal of having dispute resolution alternatives invoked as resolution options in other parts of the substantive law instruction, I was given no clear answer. Some faculty claimed the concept of lawyer as problem-solver was useful throughout their courses. Others could not provide examples outside of the dispute resolution module when they cited problem-solving or alternative dispute resolution solutions. Still, some recalled several examples of when students pressed alternatives.

One of the previous problems for the program, that some faculty felt their syllabi did not have sufficient time for the "extra" instruction, has not disappeared. However, the development of the videotape demonstrations have relieved some of that concern. They make the time allotted for dispute resolution better manageable. Also, they provide more reliable examples of successful outcomes than found in students' retelling of exercise role plays.

Interviews with upper curriculum faculty seemed to provoke even greater enthusiasm for the program than from first-year teachers. In one case, the program was cited for providing a foundation that allowed teaching a particular advanced subject at a greater level of sophistication. Others expressed attraction to the concept of lawyers as problem-solvers and found it helpful that students come into their classes with that image in place. I understand that dispute resolution modules are being developed by the instructors for courses in environmental law and corporate law. Also, very different from the first evaluation, all the faculty I spoke with communicated a great sense of pride in the program. They saw it as providing UM-C with a valuable identification , a unique contribution to legal education and a important service to the students.

To summarize: The test of this secondary program goal was done in unsystematic interviews with faculty. It appears that the program has been successful in attracting UM-C's faculty to its purpose and goals. I am less certain that the specific goal of getting faculty to regularly use examples of alternative dispute resolution in substantive law instruction has been met. However, there is a strong commitment to the program and a sense of its increasing pervasiveness. Time has brought this about and time will likely produce even greater integration.

SUMMARY AND CONCLUSION

The primary purpose of this evaluation was to measure the impact on students of The Program to Integrate Dispute Resolution into the Standard First-Year Curriculum at the University of Missouri-Columbia. Using goals for the program expressed by its director, Professor Leonard Riskin, the evaluation research was designed to test the primary and secondary objectives of the program. The primary objectives were to provide students with: a) knowledge about dispute resolution; b) an understanding of the lawyer as problem-solver and

BEST COPY AVAILABLE

c) skills relevant to dispute resolution. Secondary objectives were: a) improve the morale of students of collaborative nature; and b) encourage faculty at the law school to integrate dispute resolution alternatives into their regular substantive law instruction and advanced courses.

Comparisons were made on a series of survey responses from students at UM-C with law students at Indiana University - Bloomington, where no dispute resolution instruction is offered in the first year, and with law students at Willamette University, where a single course on dispute resolution is offered in the first year. The comparisons demonstrated that the program was successful in meeting it primary goals. Students at UM-C were much more knowledgeable of dispute resolution processes than students at IU-B. Students at UM-C accepted the concept of lawyer as problem-solver to a greater degree than students at IU-B and WU. As to skills training, the data confirm a perception that negotiation skills have been enhanced more for students at UM-C than for to students at IU-B. With that exception, however, the program does not apparently contribute to a perception of enhanced skills over that which results alone from completing the standard first-year curriculum. However, as negotiation is the center-piece of the UM-C's program, this finding is not surprising. And, given that the program occupies only about 3% of first-year instructional time, the dominate experience for students at UM-C, as at the comparison schools, is still the regular first-year curriculum.

Tests of success in meeting the secondary goals were inconclusive. The data did not show that the level of morale of collaborative students was substantially worse than other students or that its level was a function of participating in the program. Consequently, it is not clear that a problem exists to be solved.

Interviews with faculty provided uniformly positive evidence of faculty enthusiasm for the program and its contribution to the law school and students. With this solid faculty support, the program appears to be stable and likely to flourish.

The conclusion of this evaluation must be that the program is a success. The only problem revealed in the research is the ambiguity of the term problem-solving as intended to define an orientation in legal practice toward using dispute resolution alternatives. Respondents who had no exposure to dispute resolution instruction easily applied the term to themselves. Most likely they meant something else by it. Problem-solving is a term in common parlance and is not uniquely associated with any particular professional endeavor. Therefore, if the UM-C program is to be known for producing new lawyers with visions of practice expanded beyond adversarial advocacy, a new term for that kind of lawyer would be helpful. It may, however, be too late in the movement to adopt another description.

Finally, as to the important objective of program replication, it could be relatively easy for any law school that wishes it. Riskin and Westbrook's text, the supplements, videotapes and other publications from the Center for Dispute Resolution are designed to encourage replication. These provide all teaching materials used in the program and descriptions how to use them. Also, Professor Riskin is a leading spokesman for the program and has, frequently in the past, been available to assist law schools taking this step. The difficult issue in replication is whether a law school is able to commit all of its first-year faculty to

participation. Curricular entrepreneurship is typically done in the fashion of Willamette University's approach -- create a course. It is a rare law school, like the University of Missouri-Columbia, that has the collegiality and will to work toward integration of dispute resolution across the first-year curriculum. Still, the rapid development of support for alternative dispute resolution in the profession and public make it likely that new textbooks for first-year courses will begin to incorporate the problem-solving perspective and dispute resolution materials.[42] Integration of dispute resolution into the standard first-year curriculum is likely to be an inevitable movement.

---

[42]Such as, Sandra H. Johnson, et. al. *Property Law: Cases, Materials and Problems* (St. Paul, MN: West Publishing, 1992) and Jerry J. Phillips, *Tort Law: Cases, Materials and Problems* (St. Paul, MN: West Publishing, 1991).

Table A-1: Background Characteristics by School: Age, Sex, Marital Status, and City Size of Origin

Variables	UM-C	WU	IU-B	ALL	(prob)
Age (avg)	24.9	25.4	24.4	24.9	ns
Sex (% male)	69.2	69.6	64.0	67.3	ns
Marital Status					<.01
Never married	73.8	67.9	84.3	76.1	
Married	19.3	28.8	13.2	19.9	
Divorced/Separated	6.9	3.3	2.5	4.0	
City Size of Origin					ns
Big City	13.1	12.7	8.6	11.2	
Suburban	35.9	39.2	32.0	35.4	
Small City	18.6	22.2	27.4	23.2	
Small Town	19.3	19.6	23.4	21.0	
Rural	13.1	6.3	8.6	9.2	
(N)	(146)	(158)	(197)	(501)	

Table A-2: Background Characteristics by School: College, College GPA, and LSAT

Variables	UM-C	WU	IU-B	ALL	(prob)
College Attended					<.05
Elite-private	6.9	9.6	16.2	11.4	
Public	69.4	61.2	63.0	64.2	
Private - non elite	21.6	26.7	19.8	22.6	
Other	2.1	2.5	1.0	1.8	
College GPA (Avg)	3.30	3.14	3.34	3.27	<.001
LSAT (Avg)	37.3	36.2	38.7	37.5	<.001

Table A-3: Background Characteristics by School: Parent's Education, Occupation, and Income

Variables	UM-C	WU	IU-B	ALL	(prob)
Mother's Education					<.05
H.S./Voc.	36.2	24.1	38.0	33.2	
College	42.5	48.7	33.0	40.8	
Grad/Prof.	21.1	27.2	29.0	26.2	
Father's Education					<.05
H.S./Voc.	33.1	15.9	28.4	25.8	
College	28.3	35.4	27.4	22.4	
Grad/Prof.	38.6	48.7	44.2	44.0	
Mother's Occupation					ns
Professional	13.1	17.7	14.2	15.0	
Homemaker	31.0	34.8	35.0	33.8	
Other	55.9	47.5	50.8	51.2	
Father's Occupation					ns
Professional	30.6	38.6	36.5	35.5	
Other	69.4	61.4	63.5	64.5	
Family Income					ns
<40,000	27.4	16.1	24.5	22.7	
40-80,000	36.6	36.1	37.7	36.9	
80-150,000	24.0	28.4	23.5	25.2	
>150,000	12.0	19.4	14.3	15.2	
(N)	(142)	(155)	(196)	(493)	

Table A-4: Background Characteristics by School: Politics and Religion

Variables	UM-C	WU	IU-B	ALL	(prob)
Mother's Political Affil.					ns
Republican	39.9	48.7	43.1	44.0	
Democrat	40.6	32.1	39.1	37.3	
Indep./Other/None	19.5	19.2	17.8	18.7	
Father's Political Affil.					<.01
Republican	52.1	58.7	44.7	51.2	
Democrat	32.4	21.9	41.1	32.6	
Indep./Other/None	15.5	19.4	14.2	16.2	
Own Political Affil.					ns
Republican	36.6	41.7	35.0	37.6	
Democrat	27.5	26.3	28.9	27.7	
Indep./Other/None	36.0	32.0	36.1	34.7	
Religious Origin					<.01
Protestant	49.7	40.4	42.1	43.8	
Catholic	31.7	26.3	36.0	31.7	
Jewish	4.1	3.2	7.1	5.0	
Other/None	14.5	30.1	14.7	19.4	
Importance of Religion					<.05
Very	22.8	21.2	24.9	23.1	
Somewhat	40.7	30.1	36.5	35.7	
Not very	24.1	19.9	21.8	21.9	
Not at all	12.4	28.8	16.8	19.3	
(N)	(145)	(156)	(197)	(498)	

Professor James Boskey, Resources for A.D.R. in Other Media, The Alternative Newsletter (Association of American Law Schools, Section on Alternative Dispute Resolution), Nov. 1991 at pp. 31-32.

Len Riskin's Center for the Study of Dispute Resolution in conjunction with West Publishing Company is producing four videotapes based on simulation problems that are included in the Instructor's Manual of Riskin and Westbrook, Dispute Resolution and Lawyers. The tapes will be available for sale shortly after the new year from West, and a 15 minute promotional tape offerings samples from the four tapes will also be available. Each of the tapes includes an introduction by Len and segments from an ADR related process.

The first tape, which runs 47 minutes, offers a settlement conference from a medical malpractice dispute, called on the tape Thompson v Decker but in the original book known as "The Case of the Weary Hand" written by Robert Ackerman. The simulation's facts have been slightly modified from the original simulation. The settlement negotiation is performed by two experienced attorneys and gives an excellent feeling of authenticity while demonstrating clearly the ways in which competitive and problem solving approaches to negotiation can be mixed in a single negotiation. I gave my negotiation class the original exercise to negotiate and followed it with the tape, and they found the contrast between their approaches and those of the attorneys on the tape to be very instructive. In addition to the introduction, Len stops the action at two points to clarify the "negotiation process" points that are being shown. Unlike many tapes where such a break creates a loss of attention, Len's intervention was so clear that the students found it of real assistance in developing their understanding of the process.

The second tape, 35 minutes, entitled "The Carton Contract" uses William Hunnning's wonderful Mason-Dixon simulation which I have used in my classes for several years. The simulation is based on a negotiation for the purchase and sale of shipping boxes for glassware, and combines a wide range of settlement possibilities for a short-term contract with a much narrower settlement range for a more valuable long-term one. The tape is divided into two parts. In the first, the attorney negotiators, using competitive strategies find an acceptable, but extreme, solution to the short term problem and fail to come to agreement on a long-term arrangement. In the second part the same attorneys are sent back by their respective clients to try to find a long term solution as well, and are forced to modify their competitive tactics to reach a successful result. The tape is one of the clearest demonstrations of the difference between competitive and cooperative tactics that I have seen and demonstrates Robert Axelrod's theorem that cooperative tactics can supersede competitive one's in a marketplace situation.

The third tape, 38 minutes, is of a mediation entitled "The Red Devil Lease" based on the "The Missing Tenant" simulation by Dale Whitman. Len Riskin serves as the mediator as well as introducing the tape and doing the stop action, and he takes the viewer through the stages of mediation from opening statement to agreement, including caucusing with the parties. The case involves a commercial lease to a tenant whose franchisor went into bankruptcy shortly before the lease was to commence, I provides an excellent demonstration of mediator technique as well as showing the way in which a mediator can deal with widely disparate negotiation patterns on the part of the parties. I find the tape especially attractive as Len Riskin's informal but relatively controlling mediation style is very similar to my own, but for those who prefer a more non-interventionist style the tape offers a useful contrast in approach.

The final tape, 45 minutes, offers two vignettes of how an experienced attorney can lead first her client and then her opponent into accepting the use of an effective ADR process as an alternative to litigation. The case involves a libel claim against a newspaper in a situation where the plaintiff is not a public figure so that New York Times v Sullivan considerations are relatively unimportant. In the first segment, 26 minutes, the attorney explains the range of ADR options to the client and assists the client in selecting an appropriate option that will meet the client's need for confidentiality and procedural efficiency. In the second the same proposal is raised with an opposing attorney who is generally unfamiliar with ADR, and he is convinced to give it a try. The final approach selected is a mini-trial combined with authority for the convenor of the mini-trial to attempt to mediate a solution to the matter.

The tapes will be offered in combination with instructor's manuals on their use. I have seen only a preliminary draft of the first of these. It provides a survey of the way in which ADR is taught in the first year at the University of Missouri-Columbia (full integration into the first year curriculum) and then a detailed analysis of some of the means by which the tapes can effectively be integrated into a first year curriculum or a course in negotiation or ADR. Also included is a useful list of questions for the instructor to consider in presenting the material to the class.

The tapes will cost $75 each or $250 for the set of four with instructor's manuals. They can be ordered from West Publishing Co., 610 Opperman Dr., PO Box 64833, Saint Paul, MN 55164-1803. They provide a useful tool for a variety of ADR courses and are not only instructive, but enjoyable to watch.

BEST COPY AVAILABLE

HARVARD LAW SCHOOL

CAMBRIDGE · MASSACHUSETTS · 02138

October 9, 1991

Professor Leonard Riskin
Center for the Study of Dispute Resolution
University of Missouri-Columbia
School of Law
Tate Hall
Columbia, Missouri 65211

Dear Len,

I have now had a chance to look at your Tapes III and IV and think the results are excellent. I'm particularly pleased with the Mediation tape because it fills such an important gap. I will try to send you some thoughts soon after I show it in Montana, and then look forward to seeing the other two tapes some time after I return from SPIDR. Perhaps I'll see you there.

With warm regards,

Frank/mju

Frank E.A. Sander
Professor of Law

FEAS/mju

P.S. Nancy, Steve & I are tentatively planning to use some of your new Heileman article in our new edition. Is there a final version? Or even galleys?

Dictated but not read.

BEST COPY AVAILABLE

Ahmann Stewart & Nixon, P.C.
Attorneys at Law
SUMMIT RIDGE CENTER
1520-Q EAST 23RD STREET
POST OFFICE BOX 357
INDEPENDENCE, MO 64051
(816) 461-5858
FAX (816) 461-2465

Betsy Ann T. Stewart
W. Stephen Nixon

Elmer W. Ahmann
(1901-1982)

April 7, 1992

Professor Leonard Riskin
School of Law
Center for the Study of
Dispute Resolution
University of Missouri-Columbia
104 Law Building
Columbia, Missouri 65211

Dear Len:

I want to take this opportunity to sincerely thank you for sharing the excellent tapes on The Red Devil Dog Lease and the Thompson v. Decker Medical Malpractice Claim.

I apologize for the delay in returning them.

By the way, you may have missed your calling. Perhaps they have room for you on the McNiel Lehrer Report. Once again many thanks.

Sincerely yours,

AHMANN, STEWART & NIXON, P.C.

Betsy Ann T. Stewart

BAS/esm

Enclosures

SAINT LOUIS UNIVERSITY

SCHOOL OF LAW

3700 Lindell Blvd.
St. Louis, MO 63108
314/658-2777
FAX 314/658-3966

Faculty Offices

April 8, 1992

Professor Leonard L. Riskin
University of Missouri
School of Law
Missouri Ave. & Conley Ave.
Columbia, MO 65211

Dear Len:

Enclosed please find the mediation videotape. Thank you very much for letting us use this excellent tape. Alan Weinberger used it last week in his evening Property section and reported that the students enjoyed it. He used it after they had negotiated the problem and sought in that way to demonstrate how a mediation approach might produce a slightly different resolution than a negotiated approach.

I plan to introduce mediation next fall in my Property course with this tape.

Keep up the excellent work. You are developing some superb educational materials.

Best regards,

Peter W. Salsich, Jr.
McDonnell Professor of Justice
in American Society

PWS/kmn

Enclosure

MIDWEST ARBITRATION AND MEDIATION INC.

Richard L. Routman, Esq.
Director

P.O. Box 26064
Kansas City, Missouri 64196
(816) 221-4079

April 9, 1992

Prof. Leonard L. Risken
Ms. Deborah Doxee
Center for the Study of
Dispute Resolution
104 John K. Hulston Hall
University of Missouri-Columbia
Columbia MO 65211

Dear Len and Debbie:

Thank you to Debbie for the loan of the set of four ADR video tapes which I thought were great. I am going to promote them to Michael Gillie and our USAM network as good training tools for lawyers and the community at law.

I took the liberty of forwarding the complementary tape to Gillie. If you would like it back, please let me know and I'll retrieve it. The other four tapes are enclosed in two packages which were mailed together.

Hope to hear about the trip to Egypt soon. If either of you are planning to be here, would enjoy getting together.

Sincerely yours,

Richard L. Routman

/rr

BEST COPY AVAILABLE

SIU

Southern Illinois University at Carbondale
Carbondale, Illinois 62901-6804

School of Law
618-536-7711
FAX 618-453-8769

October 4, 1991

Professor Leonard L. Riskin
Center for the Study of
Dispute Resolution
University of Missouri-Columbia
School of law
104 John K. Hulston Hall
Columbia, MO 65211

Dear Len:

I apologize for delaying so long getting your video tapes back to you. After looking at them myself, I distributed them to a couple of members of our faculty who teach courses in ADR and related areas and have just gotten the tapes back.

I think that these tapes are very well done and that they can be used quite effectively in a classroom setting. Right now all of our faculty teaching in this area are using other materials that cover the same ground and it will probably be next year before anyone would seriously consider changing what they are currently doing.

What I would like to have is the brochure or other promotional material that describes these tapes. I have not as yet received a tape or any literature about the tape series from West Publishing Co.

Thank you again for allowing me to borrow these tapes. I am sure that they will be widely used.

With kindest personal regards, I am

Yours very truly,

Harry J. Haynsworth, IV
Dean and Professor of Law

HJH:sch

Enclosure: (2 video tapes)

FORDHAM
University

School of Law

140 West 62nd Street, Lincoln Center, New York, NY 10023-7485

Faculty

January 12, 1993

Professor Leonard L. Riskin
University of Missouri-Columbia
104 John K. Hulston Hall
Columbia, Missouri 65211

Dear Len:

During the fall semester I used your Red Devil videotape in my Mediation Clinic course. It was an invaluable tool in the skills training aspect of the course and I intend to use it again this semester. All of the clinic students were in their third year of law school and many were "stuck" in an adversarial mode. I found your videotape to be about the best way to show the non-adversarial story of lawyering.

From the mediator's opening statement to the agreement-reaching stage, the film demonstrates a professional, thoughtful approach to understanding the role of the lawyer-mediator. The format, role play and break-outs for the mini-lectures, is a useful one because the break-out points in the tape are well-timed for the professor to stop and critique the mediator's strategies.

I also used the dispute negotiation tape in my Alternative Dispute Resolution Seminar this fall and I am equally impressed with the professionalism and high quality of the videotape. I found the demonstration of the differences between and adversarial and problem-solving approach to be quite helpful for the students and I am pleased that you included some ethical issues such as truth-telling in negotiation. Student response was so enthusiastic that some of the students tried to model their behavior after the role-playing attorneys.

Students from both courses gave high marks to these tapes. I hope that you produce more.

All the best,

Jacqueline M. Nolan-Haley
Associate Clinical Professor
Assistant Director of Clinical Education

BEST COPY AVAILABLE

ST. MARY'S UNIVERSITY

January 13, 1993

Professor Leonard L. Riskin
University of Missouri-Columbia
School of Law
Missouri Ave. & Conley Ave.
Columbia, Missouri 65211

Dear Professor Riskin:

In my 1991-92 Property class I used "Tape III. Mediation: The Red Devil Dog Lease" from the videotape series on "Dispute Resolution and Lawyers." In a few weeks I will once again be teaching that segment of my Property course and I plan to use the videotape again.

I want to thank you and The Center for the Study of Dispute Resolution for making excellent teaching materials such as this available. I had used The Red Devil Dog negotiation exercise in previous property classes, and when I heard that your series of videotapes on dispute resolution included a mediation of that problem, I was delighted. I ordered the videotape and used it in combination with the negotiation exercise.

The videotape was a big success in class. Before seeing it, the students had already worked through the facts and issues involved with other members of the class in the context of the negotiation exercise. This combination worked very well; students learned valuable lessons about methods and techniques of problem-solving and dispute resolution. The videotape also helped me put some humanity into a few of the abstractions we discussed in class.

Again, I thank you and your colleagues for the work you do and the valuable assistance it provides to others. I look forward to future opportunities to use the Red Devil Dog Lease videotape and other productions of the Center in appropriate courses.

Very truly yours,

Douglas R. Haddock

SCHOOL OF LAW
ONE CAMINO SANTA MARIA
SAN ANTONIO, TEXAS 78228-8603
(512) 436-3308
FAX (512) 436-3717

BEST COPY AVAILABLE

THE DICKINSON SCHOOL OF LAW

January 15, 1993

Professor Leonard L. Riskin
C.A. Leedy Professor of Law
Director, Center for the Study of
Dispute Resolution
University of Missouri-Columbia
School of Law
104 John K. Hulston Hall
Columbia, MO 65211

Re: Evaluation of Dispute Resolution and Lawyers Videotape Series

Dear Len:

I am pleased to write you regarding the dispute resolution and lawyers videotape series in connection with your final report to the Fund for the Improvement of Post Secondary Education, U.S. Department of Education. Fairness requires that I begin with a disclaimer: I wrote the problem on which one of these tapes is based, later consulted with you in connection with preparation of the videotape, was paid (modestly) for both of these services, and take some pride in authorship. While I therefore cannot advertise myself as a completely detached observer, I will try to be as objective as possible.

To date, I have used two of the tapes: Tape I, Dispute Negotiation: The Thompson v. Decker Medical Malpractice Claim (based on the problem I wrote) and Tape III, Mediation: The Red Devil Dog Lease. I used (and will continue to use) Tape I on the first day of my Alternative Dispute Resolution course, offered to second and third year law students. That course begins (after a brief introduction to ADR in general) with the study of negotiation. Most of the students in the course will have been exposed to the medical malpractice problem through a simulation in their first year torts course. See LEONARD L. RISKIN AND JAMES E. WESTBROOK, INSTRUCTOR'S MANUAL WITH SIMULATION AND

BEST COPY AVAILABLE

150 SOUTH COLLEGE STREET, CARLISLE, PENNSYLVANIA 17013-2899 (717) 243-4611

PROBLEM MATERIALS TO ACCOMPANY DISPUTE RESOLUTION AND LAWYERS, 287-305 (West 1987). The tape demonstrates to my students how somebody else might negotiate a resolution of this dispute. It also focuses on two issues on which I do not focus when discussing the problem in the torts course: (1) the interplay of cooperative and competitive bargaining in negotiation, and (2) the advantages and disadvantages of a client's presence during negotiation.

The participants in the videotaped negotiation are quite believable. This does not mean that they are "perfect" negotiators; indeed, one of the merits of the tape is that it provides students an opportunity to critique the lawyers' negotiation styles. The tape occasionally cuts away to a narrator, Professor Riskin, who provides a useful (but not the only possible) analytical framework for what one has seen is about to see. I have found this tape to be an excellent way to introduce negotiation to my ADR class. I have not used it in my first year course in torts, because the tape's focus on negotiation styles and tactics is not what I wish to emphasize in a first year substantive course.

I have yet to use Tape III (Red Devil Dog Lease mediation) in a law school course, but have used it for mediation training of attorneys in connection with a county bar association-sponsored settlement week. (I hope that I did not violate any licensing agreements in doing so.) Based on that experience, I intend to employ the tape in my ADR course this semester. The tape provides a useful introduction to mediation by means of a fairly simple dispute over a lease. Again, the participants are believable; the mediator is certainly competent but not perfect (at one point he paraphrases a party's position in a manner that restates the position somewhat inaccurately). All of this is to the good, as even the best of mediators (which category certainly includes Professor Riskin, the mediator in this videotape) will make mistakes during the course of mediation. Again, the enactment of the mediation is interspersed with helpful commentary. The time frame of the mediation is necessarily short in order to accommodate a fifty-minute class hour; nevertheless, the mediation has been telescoped without losing out on any of the essentials. Of course, not all such disputes will be mediated so quickly, nor will they all be resolved. The tape does a particularly good job of focusing on the parties' respective interests as a means of resolving the dispute.

I have yet to use either of the other two tapes, but will consider using Tape IV, Overview of ADR: The Roark v. Daily Bugle Libel Claim, in connection with my coverage of defamation in torts this semester. I have high expectations for this tape, because in general I have found the tapes in this series to be professional but not slick, useful but not overly facile. They are far superior to most other ADR demonstration tapes that I have seen. Their quality is consistent with the generally high quality of work that I have come to associate with Professor Riskin and the Center for the Study of Dispute Resolution.

I hope that the above review proves helpful. Please let me know if you require any further assistance or detail.

Best wishes for a happy and productive new year.

Sincerely,

Bob Ackerman

Robert M. Ackerman
Professor of Law

RMA:lkw

The University of Mississippi

Faculty
Law Center
University, MS 38677
(601) 232-7361

February 8, 1993

Professor Leonard L. Riskin
University of Missouri-Columbia
School of Law
Columbia, MO 65211

Dear Professor Riskin:

I have been working here at the University of Mississippi to integrate negotiation skills training into the curriculum. Three years ago I developed a new third-year course which uses a legal opinion negotiation exercise to introduce students to business lawyering. The enclosed article describes the course. I thought you might be interested.

I have also developed a contract negotiation competition in which all our first year students participate. The competition is patterned after the one that Roger Fisher directed during the interim sessions at Harvard Law School.

Part of this year's training in preparation for the contract negotiation competition was to have all first-year students view your cardboard carton negotiation. I can tell you that it is a superb training tool! It kept students' attention and generated excellent discussion on all aspects of "principled negotiation." (We used Getting to Yes and a number of excerpts as our basic reading).

Thanks for your contribution to skills training.

Very truly yours,

Bryn R. Vaaler
Associate Professor of Law

Enclosure

BEST COPY AVAILABLE

A LEGACY OF ACHIEVEMENT WITH VISION

APPENDIX C Comments for FIPSE

I have enjoyed the enormously helpful attitudes of Sandra Newkirk, our Project Officer, and Dora Marcus, FIPSE's evaluation expert. Whenever I had a question or problem remotely related to the project, they were available and either offered wonderful suggestions, supported my own inclinations, or helped me think through the situation.

I expect a great deal of innovation in legal education in the near future, so FIPSE probably should anticipate more proposals from law schools. There are, however, too many currently-fashionable new directions for me to comment on them here.